

1. Amend Chapter title; adopt new Section 82001; renumber Section 82501(a)(1) et seq. to Section 82001(a)(8) et seq.; Section 82501(a)(2) to Section 82001(a)(10); Section 82501(c)(1) to Section 82001(c)(3); Section 82501(d)(1) to Section 82001(d)(7); Sections 82501(f)(1) and (2) et seq. to Sections 82001(f)(2) and (3) et seq., and amend to read:
2. 15-Day Renotice: Amend Sections 82001(a)(8)(C), (u)(1)(A)(6) and (A)(7) to read:

CHAPTER 3. ADULT DAY CARE FACILITIES/ADULT DAY SUPPORT CENTERS

Article 1. General Requirements (Continued)

82001 DEFINITIONS

82001

The following general definitions shall apply wherever the terms are used throughout Division 6, Chapter 3.

- (a) (1) “Activities of Daily Living” (ADLs) mean the following six activities:
- (A) Bathing: Cleaning the body using a tub, shower or sponge bath, including getting a basin of water, managing faucets, getting in and out of tub or shower, reaching head and body parts for soaping, rinsing and drying.
 - (B) Dressing: Putting on and taking off, fastening and unfastening garments and undergarments and special devices such as back or leg braces, corsets, elastic stockings/garments and artificial limbs or splints.
 - (C) Toileting: Getting on and off a toilet or commode, emptying a commode, managing clothes, wiping and cleaning the body after toileting, and using and emptying a bedpan and urinal.
 - (D) Transferring: Moving from one sitting or lying position to another sitting or lying position (e.g., from bed to or from a wheelchair, or sofa, coming to a standing position and/or repositioning to promote circulation and to prevent skin breakdown).
 - (E) Continence: Ability to control bowel and bladder as well as to use ostomy and/or catheter receptacles, and to apply diapers and disposable barrier pads.
 - (F) Eating: Reaching for, picking up, grasping a utensil and cup; getting food on a utensil; bringing food, utensil, and cup to mouth; manipulating food on plate; and cleaning face and hands as necessary following meal.

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See also the definition of “Client Who Relies Upon Others to Perform All Activities of Daily Living” in Section 82001(c)(6).

HANDBOOK ENDS HERE

- (2) “Administrator” means the licensee, or the adult designated by the licensee to act in his/her behalf in the overall management of the facility/center.
- (3) “Adult” means a person who is 18 years of age or older.
- (4) “Adult Community Care Facility” (Adult CCF) means Adult Residential Facilities (ARF), Social Rehabilitation Facilities (SRF), Adult Day Care Facilities (ADCF) and Adult Day Support Centers (ADSC).
- (5) “Adult Day Care Facility” means any facility of any capacity which provides nonmedical care and supervision to adults on less than a 24-hour per day basis.
- (6) “Adult Day Program” This term may be used when reference is being made to both Adult Day Care Facilities and Adult Day Support Centers.
- (7) “Adult Day Support Center” means a community-based group program designed to meet the needs of functionally impaired adults through an individual plan of care in a structured comprehensive program that provides a variety of social and related support services in a protective setting on less than a 24-hour per day basis.

82501(a)

- (48) “Adult Day Support Center Services” means those non-medical services provided in an adult day support center to adults with physical, emotional or mental impairments, and who require assistance and supervision. Such persons include, but are not limited to, the following:
 - (A) Those persons who require assistance with ~~personal~~ activities of daily living (~~bathing, dressing, grooming, etc.~~) [Section 82001(a)(1)] and instrumental activities of daily living (~~laundry, shopping, paying bills, etc.~~) [Section 82001(i)(2)]. These persons may live independently, at home with a careprovider, in a community care facility, or in a health facility but do not require a medical level of care during the day.
 - (B) Those persons who require assistance and supervision in overcoming the isolation associated with functional limitations or disabilities.

(C) Those persons who, without program intervention, are assessed to be at risk of physical deterioration ~~of~~ or premature institutionalization due to their psychological condition.

(9) “Applicant” means any adult, firm, partnership, association, corporation, county, city, public agency or other government entity that has made application for an initial community care facility license.

82501(a)

(210) “Assessment” means a written evaluation which identifies the participant’s client’s strengths and his/her social and other related needs.

(11) “Authorized Representative” means any person or entity authorized by law to act on behalf of any client. Such person or entity may include, but not be limited to, a legal guardian or conservator.

(b) (1) “Basic Rate” means the rate charged by a facility/center to provide basic services.

(2) “Basic Services” means those services required by applicable law and regulation to be provided by the licensee in order to obtain and maintain a community care facility license.

(c) (1) “Capacity” means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility/center.

(2) “Care and Supervision” means any one or more of the following activities provided by a person or facility/center to meet the needs of the clients:

(A) Assistance in dressing, grooming, bathing and other personal hygiene.

(B) Assistance with taking medication, as specified in Section 82075.

(C) Central storing and/or distribution of medications, as specified in Section 82075.

(D) Arrangement of and assistance with medical and dental care.

(E) Maintenance of facility/center rules for the protection of clients.

(F) Supervision of client schedules and activities.

(G) Maintenance and/or supervision of client cash resources or property.

(H) Monitoring food intake or special diets.

(I) Providing basic services as defined in Section 82001(b)(2).

82501(e)

- (13) “Careprovider” means any person or institution having the responsibility for the participant’s client’s primary care needs outside the facility/center.
- (4) “Cash Resources” means:
- (A) Monetary gifts.
 - (B) Tax credits and/or refunds.
 - (C) Earnings from employment or workshops.
 - (D) Personal and incidental needs allowances from funding sources including, but not limited to SSI/SSP.
 - (E) Any other similar resources as determined by the licensing agency.
- (5) “Client” means an adult who is receiving care and supervision in an adult day care facility or an adult day support center.
- (6) “Client Who Relies Upon Others To Perform All Activities of Daily Living” means a client who is unable to perform all six activities of daily living without physical assistance.

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See also the definition of Activities of Daily Living in Section 82001(a)(1).

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- (7) “Close Friend” means a person who is attached to another by feelings of personal regard as indicated by both parties involved.
- (8) “Community Care Facility” means any facility/center, place or building where nonmedical care and supervision, as defined in Section 82001(c)(2) are provided.
- (9) “Completed Application” means:
- (A) The applicant has submitted and the licensing agency has received all required materials including: an approved fire clearance, if appropriate, from

the State Fire Marshal; a criminal record clearance on the applicant and any other individuals as specified in Section 82019.

(B) The licensing agency has completed a site visit to the facility/center.

(10) "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1800 et seq. of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, of another.

82501(e)

(211) "Consultant" means a person professionally qualified by training or experience to provide expert information on a particular subject and/or to provide services not otherwise available through the facility's/center's personnel.

(12) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility/center property within regulatory requirements. Evidence of control of property may include, but is not limited to, the following:

(A) A Grant Deed showing ownership; or

(B) The lease agreement or rental agreement; or

(C) A court order or similar document which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.

(13) "Conviction" means:

(A) A criminal conviction in California; or

(B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.

(14) "Criminal Record Clearance" means an individual has a California Department of Justice clearance and a Federal Bureau of Investigation (FBI) clearance.

(d) (1) "Day" means calendar day unless otherwise specified.

(2) "Deficiency" means any failure to comply with any provision of the Community Care Facilities Act (Health and Safety Code, Section 1500 et seq.) and/or regulations adopted by the Department pursuant to the Act.

(3) "Department" is defined in Health and Safety Code Section 1502(b).

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(A) Department means the California Department of Social Services.

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(4) "Department of Justice Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. The individual may also have been arrested with no criminal conviction or convicted of minor traffic or juvenile offenses.

(5) "Developmental Disability" means a disability as defined in Welfare and Institutions Code Section 4512(a).

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(A) Welfare and Institutions Code Section 4512(a) provides in part:

"(a) "Developmental disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual....this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature."

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(6) "Dietitian" means a person who is a member of or registered by the American Dietetics Association.

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(17) "Direct Care Staff" means those persons in the center who provide care and supervision to participants clients at least 70 percent of the hours of program operations per month or who supervise direct care staff.

(8) "Director" as defined in Health and Safety Code Section 1502(c).

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(A) Director means the director of the California Department of Social Services.

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- (e) (1) “Emergency Approval to Operate” (LIC 9117) means a temporary approval to operate a facility/center for no more than 60 days pending the Department's decision on whether to approve or deny a provisional license.
- (2) “Evaluator” means any person who is a duly authorized officer, employee or agent of the Department, including any officer, employee or agent of a county or other public agency authorized by the Department to license community care facilities.
- (3) “Evidence of Licensee's Death” shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the licensee's death.
- (4) “Exception” means a written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation(s) and which are based on the unique needs or circumstances of a specific client(s) or staff person(s). Exceptions are granted for particular client(s) or staff person(s) and are not transferable or applicable to other client(s), staff person(s), facilities/centers or licensees.
- (5) “Exemption” means an exception to the requirements of Health and Safety Code Section 1522 and applicable regulations. Exemptions are not transferable.

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- (A) Health and Safety Code Section 1522(g) provides in part:

“(g) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in... subdivision (a), or for a license, special permit, or certificate of approval as specified in...subdivision (d), or for employment, residence, or presence in a community care facility as specified in...subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). ...”

HANDBOOK ENDS HERE

- (6) “Existing Facility” means any community care facility operating under a valid, unexpired license on the date this chapter becomes effective.

- (f) (1) “Federal Bureau of Investigation (FBI) Clearance” means an individual has no felony or misdemeanor convictions reported by the FBI. The individual may also have been arrested with no criminal conviction or convicted of minor traffic or juvenile offenses.

82501(f)

- (12) “Formal Supports” means the formal network of social, health, financial, and other services offered by public and private agencies.
- (23) “Functionally Impaired Adult” means an adult who does not require continuous on-site medical supervision, yet has a limited capacity for independence in the following:
- (A) ~~In a~~Activities of daily living ~~such as grooming, bathing, toileting and other hygiene care.~~
- (B) ~~In i~~Instrumental activities of daily living ~~such as paying bills, cooking, shopping and using the telephone.~~
- (g) (1) “Guardian” means a person appointed by the Superior Court pursuant to the provisions of Sections 1500 et seq. of the Probate Code to care for the person, or estate, or the person and estate of another.
- (h) (1) “Health Condition Relocation Order” means written notice by the Department to a licensee requiring the relocation of a client from an adult day program because either the licensee is not providing adequate care for a client's health condition as required by the regulations or the client cannot be cared for within the limits of the license or the client requires in-patient care in a health facility or has a prohibited health condition, as specified in Section 82091.
- (2) “Home Economist” means a person who holds a baccalaureate degree in home economics with a specialization in either foods and nutrition or dietetics.
- (3) “Hours of Operation” means the period of time that the facility/center is providing services to clients.
- (i) (1) “Inhalation-assistive Device” means any equipment that assists a client to breathe including, but not limited to, aerosol delivery devices, nebulizers, humidifiers, incentive spirometry devices, positive airway pressure devices, and positive expiratory pressure devices, and intermittent positive pressure breathing (IPPB) machines.
- (2) “Instrumental Activities of Daily Living” shall include, but not be limited to, the following:

(A) Paying bills.

(B) Cooking.

(C) Shopping.

(D) Laundry.

(E) Using the telephone.

(3) “Interdisciplinary Team” (IDT) means a team that assists the Department in evaluating the need for relocating a client of an adult day program when the client requests a review of the Department's Health Condition Relocation Order. This team consists of a nurse practitioner and a social worker, designated by the Department, with experience in the needs of the client population. Persons selected for an IDT shall not have been involved in the initial decision to issue a relocation order for the client in question.

(j) (Reserved)

(k) (Reserved)

(l) (1) “License” means authorization to operate a community care facility and to provide care and supervision. The license is not transferable.

(2) “Licensed Professional” means a person who is licensed in California to provide medical care or therapy. This includes physicians and surgeons, physician assistants, nurse practitioners, registered nurses, licensed vocational nurses, psychiatric technicians, physical therapists, occupational therapists and respiratory therapists, who are operating within their scope of practice.

(3) “Licensee” means the adult, firm, partnership, association, corporation, county, city, public agency, or other governmental entity having the authority and responsibility for the operation of a licensed community care facility.

(4) “Licensing Agency” means the California Department of Social Services or any state, county or other public agency authorized by the Department to assume specified licensing responsibilities pursuant to Section 1511 of the Health and Safety Code.

(m) (1) “Medical Professional” means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of

practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).

- (2) “Mental Disorder” means any of the disorders set forth in the Diagnostic and Statistical Manual of Mental Disorders (Fourth Edition) of the American Psychiatric Association and a degree of functional impairment which renders a person eligible for the services enumerated under the Lanterman-Petris-Short Act, commencing with Section 5000 of the Welfare and Institutions Code.

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- (n) (1) “Needs and Services Plan” means a written plan that identifies the specific needs of an individual client, including those items as specified in Sections ~~802068.2 and 82568.2~~ and delineates those services necessary to meet the client's identified needs.

- (2) “Nonambulatory Person” means a person as defined in Health and Safety Code Section 13131.

(A) A person who uses postural supports as specified in Section 82072(a)(8) is deemed nonambulatory.

(B) A person is not deemed nonambulatory solely because he/she is deaf, blind, or prefers to use a mechanical aid.

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- (C) Health and Safety Code Section 13131 provides:

“Nonambulatory persons” means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. The determination of ambulatory or nonambulatory status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative. The determination of ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984, who are not developmentally disabled shall be made by the Director of Social Services or his or her designated representative.”

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- (3) “Nutritionist” means a person who holds a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed as a nutritionist by a county health department.

(o) (Reserved)

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- (p) (1) “Participant” means any ~~person adult who is receiving care and supervision in~~ admitted to an adult day ~~support center~~ program. Participant is equivalent to “client” as used ~~defined in the general licensing requirements~~ Section 82001(c)(5).
- (2) “Physician” means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.
- (3) “Placement Agency” is defined in Health and Safety Code Sections 1536.1 and 1569.47(a).

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- (A) Health and Safety Code Sections 1536.1 and 1569.47(a) are combined and paraphrased in pertinent part:

“Placement agency” means any county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and regional center for persons with developmental disabilities, which is engaged in finding homes or other places for the placement of persons of any age for temporary or permanent care.

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- (4) “PRN Medication” (pro re nata) means any nonprescription or prescription medication which is to be taken as needed.
- (5) “Provision” or “Provide” means whenever any regulation requires that provisions be made for or that there be provided any service, personnel, or other requirement, the licensee shall do so directly or present evidence to the licensing agency that the requirement has been met by some other means.

- (6) “Provisional License” means a license which is temporary, nonrenewable, and issued for a period not to exceed 12 months. A provisional license is issued in accordance with the criteria as specified in Section 82030.
- (q) (Reserved)
- (r) (1) “Rehabilitation” means that period of time, together with any education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service, which assist an individual in reestablishing good character.
- (2) “Relative” means spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or such person denoted by the prefix “grand” or “great” or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
- (3) “Responsible Person” means that individual or individuals, including a relative or placement agency, who assists the client or prospective client in placement or assumes varying degrees of responsibility for the client's well-being. A responsible person cannot act on behalf of a client unless authorized by law.
- (s) (1) “Serious Deficiency” means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the clients of a community care facility.

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- (A) See Section 82051 and other applicable sections in Chapters 2 through 7 for examples of violations which commonly result in serious deficiencies.

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- (2) “Simplified Exemption” means an exemption granted on the Department’s own motion, as authorized in Health and Safety Code Section 1522(c)(4), if the individual’s criminal history meets specific criteria established by Department policy or regulation.
- (3) “Social Worker” means a person who has a graduate degree from an accredited school of social work.
- (4) “SSI/SSP” means the Supplemental Security Income/State Supplemental Program which is a federal/state program that provides financial assistance to aged, blind and/or disabled residents of California.

- (5) “Substantial Compliance” means the absence of any serious deficiencies.
- (6) “Substantiated Complaint” means a complaint which has been investigated by the licensing agency, and as a result, a violation of regulations has been found.
- (t) (Reserved)
- (u) (1) “Universal Precautions” means an approach to infection control that treats all human blood and body fluids as if they are infectious. Generally, Universal Precautions consist of regular hand-washing after coming into contact with another person's body fluids (mucous, saliva, urine, etc.) and includes the use of gloves when handling blood or body fluids that contain blood. Specifically, Universal Precautions consist of the following four basic infection guidelines:
- (A) Hand-washing - Staff should wash their hands:
1. After assisting with incontinent care or wiping a client's nose.
 2. Before preparing or eating foods.
 3. After using the toilet.
 4. Before and after treating or bandaging a cut.
 5. After wiping down surfaces, cleaning spills, or any other housekeeping.
 6. After being in contact with any body fluids from another person, even if they wore gloves during contact with body fluids.
 - ~~7. Even if they wore gloves during contact with body fluids.~~
- (B) Gloves - Staff should always wear gloves:
1. When they come into contact with blood or body fluids.
 2. When they have cuts or scratches on their hands.
 3. When assisting with incontinent care.
 4. When administering first aid for a cut, a bleeding wound, or a bloody nose.
 5. Use gloves only one time, for one incident or client.

- (i) Staff must air dry their hands prior to putting on a new pair of gloves.
 - 6. Dispose of used gloves immediately after use.
- (C) Cleaning with a disinfectant - Staff should clean with a disinfectant:
 - 1. On all surfaces and on an “as needed” basis on any surface that has come into contact with blood.
 - 2. Such as a basic bleach solution, made fresh daily by mixing:
 - (i) 1/4 cup household liquid chlorine bleach in one gallon of tap water, or one tablespoon bleach in one quart of water.
- (D) Proper disposal of infectious materials - Staff should dispose of infectious materials by:
 - 1. Placing them in a plastic trash bag, tying it with a secure tie, and disposing of it out of reach of clients and visitors.
- (2) “Unlicensed Community Care Facility” means a facility/center as defined in Health and Safety Code Section 1503.5.

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(A) Health and Safety Code Section 1503.5 provides in part:

“(a) A facility shall be deemed to be an “unlicensed community care facility” and “maintained and operated to provide nonmedical care” if it is unlicensed and not exempt from licensure and any one of the following conditions is satisfied:

“(1) The facility is providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

“(2) The facility is held out as or represented as providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

“(3) The facility accepts or retains residents who demonstrate the need for care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

“(4) The facility represents itself as a licensed community care facility.”

HANDBOOK ENDS HERE

(B) A facility/center which is “providing care and supervision” as defined in Section 82001(c)(2) includes, but is not limited to, one in which an individual has been placed by a placement agency or family members for temporary or permanent care.

(C) A facility/center which is “held out as or represented as providing care or supervision” includes, but is not limited to:

1. A facility/center whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.

2. A facility/center where a change of ownership has occurred and the same clients are retained.

3. A licensed facility/center that moves to a new location.

4. A facility/center which advertises as providing care and/or supervision.

(D) A facility/center which “accepts or retains clients who demonstrate the need for care or supervision” includes, but is not limited to:

1. A facility/center where it is apparent that care and/or supervision are being provided by virtue of the client's needs being met.

(3) “Urgent Need” means a situation where prohibiting the operation of the facility/center would be detrimental to a client's physical health, mental health, safety, or welfare. Circumstances constituting urgent need include, but are not limited to, the following:

(A) A change in facility/center location when clients are in need of services from the same operator at the new location.

(B) A change of facility/center ownership when clients are in need of services from a new operator.

(v) (Reserved)

(w) (1) “Waiver” means a nontransferable written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation and which are based on a facility/center-wide need or circumstance.

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

Authority cited: Sections 1502.2, 1524(e), 1530, and 1530.9, Health and Safety Code.

Reference: Sections 1501, 1502, 1502(a)(7) and (8), 1502.2, 1503, 1503.5, 1505, 1507, 1508, 1509, 1511, 1520, 1522, 1524, 1524(e), 1525, 1525.5, 1526, 1527, 1530, 1530.5, 1531, 1531.1, 1533, 1534, 1536.1, 1537, 1538.5, 1550, 1551, 1556, 1569.699(a) and 11834.11, Health and Safety Code; Sections 5453, 5458, 11006.9, and 17736(a) and (b), Welfare and Institutions Code; and 29 CFR 1910.1030.

Adopt Section 82003 to read:

82003 FORMS DEFINITIONS

82003

- (a) The following forms which are incorporated by reference apply to the regulations in Title 22, Division 6, Chapter 3:
- (1) LIC 195 - Notice of Operation in Violation of Law - Revised 10/99
 - (2) LIC 200 - Application for a Community Care Facility or Residential Care Facility for the Elderly License - Revised 3/99
 - (3) LIC 508 - Criminal Record Statement - Revised 7/00
 - (4) LIC 9117 - Emergency Approval to Operate - Revised 2/00
 - (5) LIC 9158 - Telecommunications Device Notification - Revised 10/99
 - (6) LIC 9188 - Criminal Record Exemption Transfer Request - Revised 8/00

Authority Cited: Sections 1524(e) and 1530, Health and Safety Code.

Reference: Sections 1524 and 1524(e), Health and Safety Code.

Adopt new Section 82005 to read:

Article 2. Licensing

82005 LICENSE REQUIRED

82005

- (a) Unless a facility/center is exempt from licensure as specified in Section 82007, no adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or maintain a community care facility, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the licensing agency.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1505, 1508, 1509, 1513, and 1531, Health and Safety Code.

Adopt new Section 82006 to read:

82006 OPERATION WITHOUT A LICENSE

82006

- (a) An unlicensed facility/center, as defined in Section 82001(u)(2), is in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code unless exempted from licensure pursuant to Section 82007.
- (b) If the facility/center is alleged to be in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code, the licensing agency shall conduct a site visit and/or evaluation of the facility/center pursuant to Health and Safety Code Section 1538.

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- (1) Health and Safety Code Section 1538(c) provides in part:

“(c) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility or certified family home, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection of the community care facility or certified family home within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.”

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- (c) If the facility/center is operating without a license, the licensing agency shall issue a notice of operation in violation of law and shall refer the case for criminal prosecution and/or civil proceedings.
- (d) The licensing agency shall have the authority to issue an immediate civil penalty pursuant to Section 82058 and Section 1547 of the Health and Safety Code.

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- (1) Section 1547 of the Health and Safety Code provides in part:

“(a) Notwithstanding any other provision of this chapter, any person who violates Section 1503.5 or 1508, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars (\$200) per day of the violation.

“(b) The civil penalty authorized in subdivision (a) shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the operator seeks licensure and the licensure application is denied and the operator continues to operate the unlicensed facility,...”

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- (e) Sections 82006(c) and (d) shall be applied pursuant to Section 1549 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Section 1549 of the Health and Safety Code states:

“The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the department to enforce this chapter.”

HANDBOOK ENDS HERE

- (f) The licensing agency shall notify the appropriate placement or protective service agency if either of the following conditions exist:

- (1) There is an immediate threat to the clients' health and safety.
- (2) The facility/center does not submit an application for licensure within 15 calendar days of being served a Notice of Operation in Violation of Law (LIC 195).

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1503.5, 1505, 1508, 1533, 1538, 1540, 1540.1, 1541, 1547, and 1549, Health and Safety Code.

Adopt new Section 82007 to read:

82007 EXEMPTION FROM LICENSURE

82007

- (a) The adult day care facility/adult day support center regulations contained in this division shall not apply to any of the following:
- (1) Any health facility, as defined by Section 1250 of the Health and Safety Code.
 - (2) Any clinic, as defined by Section 1202 of the Health and Safety Code.
 - (3) Any facility/center conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.
 - (4) Any care and supervision of persons by a relative, guardian, or conservator.
 - (5) Any care and supervision of persons from only one family by a close friend of the recipient, parent, guardian, or conservator, provided the following are met.
 - (A) The close friend is not a licensee or current employee of an Adult Residential Facility, an Adult Day Care Facility, an Adult Day Support Center or a Residential Care Facility for the Elderly.
 - (B) The arrangement is not of a business nature, in that the provider does not represent himself or herself as being in the business of provision of care, and any compensation that may be paid to the provider is only for the value of the services rendered.
 - (C) The arrangement occurs and continues only as long as the needs for care and supervision of the recipient are being adequately met.
 - (6) Any placement agency as defined in Health and Safety Code Section 1536.1 or an individual who places individuals for care in a facility/center licensed to receive and care for such persons.
 - (7) The Department.
 - (8) Any similar facility as determined by the Director.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1505, 1508, 1530, 1530.5, and 1536.1, Health and Safety Code; Sections 226.2, 226.5, and 226.6, Civil Code; and Sections 362, 727, and 16100, Welfare and Institutions Code.

Adopt new Section 82008 to read:

82008 LICENSING OF INTEGRAL FACILITIES

82008

- (a) Upon written application from the licensee, the licensing agency shall have the authority to issue a single license for separate buildings which might otherwise require separate licenses provided that all of the following requirements are met:
- (1) Separate buildings or portions of the facility/center are integral components of a single program.
 - (2) All components of the program are managed by the same licensee.
 - (3) All components of the program are conducted at a single site with a common address.
- (b) If Section 82008(a) does not apply, each separately licensed component of a single program shall be capable of independently meeting the provisions of applicable regulations as determined by the licensing agency.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1508, 1509, and 1513, Health and Safety Code.

Adopt new Section 82010 to read:

82010 LIMITATIONS ON CAPACITY AND AMBULATORY STATUS 82010

- (a) A licensee shall not operate a facility/center beyond the conditions and limitations specified on the license, including the capacity limitation.
- (b) Facilities/centers or rooms approved for ambulatory clients only shall not be used by nonambulatory clients.
 - (1) Clients whose condition becomes nonambulatory shall not use rooms or areas restricted to ambulatory clients.
 - (2) The licensing agency shall have the authority to require clients who use ambulatory sections of the facility/center to demonstrate that they are ambulatory.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1528, and 1531, Health and Safety Code.

Adopt new Section 82012 to read:

82012 FALSE CLAIMS

82012

- (a) No licensee, officer, or employee of a licensee shall make or disseminate any false or misleading statement regarding the facility/center or any of the services provided by the facility/center.
- (b) No licensee, officer, or employee of a licensee shall alter a license, or disseminate an altered license.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1508, and 1531, Health and Safety Code.

Amend Article 3. title and adopt new Section 82017 to read:

Article 3. Application Procedures ~~(Reserved)~~

82017 APPLICANT QUALIFICATIONS

82017

- (a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, handicap, marital status, or sexual orientation.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1520 and 1528, Health and Safety Code.

Adopt new Section 82018 to read:

82018 APPLICATION FOR LICENSE 82018

- (a) Any adult, firm, partnership, association, corporation, limited liability company, county, city, public agency, or other governmental entity desiring to obtain a license shall file with the licensing agency a verified application on forms furnished by the licensing agency.
- (b) Prior to filing an application, the applicant shall attend an orientation designed for the specific facility/center type and provided by the licensing agency.

 - (1) The orientation shall cover, but not be limited to, the following areas:

 - (A) Completion of the application for license.
 - (B) Scope of operation subject to regulation by the Department.
 - (2) An applicant, who is already licensed for a facility/center in the same category, shall not be required to attend an orientation if the last orientation attended was for the same facility/center type and within two (2) years of the next scheduled orientation.
 - (3) An applicant applying for more than one facility/center license, in the same facility/center type, shall be required to attend only one orientation.
- (c) The applicant/licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency.
- (d) The application and supporting documents shall contain the following:

 - (1) Name or proposed name and address of facility/center.
 - (2) Name, and residence and mailing addresses of applicant.

 - (A) If the applicant is a partnership, the name, and principal business address of each partner.
 - (B) If the applicant is a corporation or association, the name, title and principal business address of each officer, executive director and member of the governing board.

- (C) If the applicant is a corporation which issues stock, the name and address of each person owning more than 10 percent of stock in such corporation.
 - (D) If the applicant is a corporation or association, a copy of the articles of incorporation, constitution, and bylaws.
 - (E) If the applicant is a corporation, each member of the board of directors, executive director, and any officer shall list the name of all facilities which they have been licensed to operate, employed by or a member of the board of directors, executive director or an officer.
- (3) Name and address of owner of facility/center premises if applicant is leasing or renting.
 - (4) The category of facility/center to be operated.
 - (5) Maximum number of persons to be served.
 - (6) Age range, sex, and the categories of persons to be served including, but not limited to, persons with developmental disabilities, mental disorders, physically handicapped, and/or nonambulatory persons.
 - (7) Hours or periods of facility/center operation.
 - (8) Name of administrator, if applicable.
 - (9) Information required by Health and Safety Code Section 1520(d).

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- (A) Health and Safety Code Section 1520(d) provides:

“(d) Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer, or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in, any community care facility or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).”

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- (10) Information required by Health and Safety Code Section 1520(e) is paraphrased below:

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- (A) Information regarding any revocation or temporary suspension action taken or in the process of being taken against a license held or previously held by the applicant or while the applicant served in any of the capacities as specified in Section 82018(d)(9).

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- (11) Name, address, and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility/center is located.
- (12) A plan of operation as specified in Section 82022.
- (13) Fingerprints as specified in Section 82019.
- (14) The bonding affidavit as specified in Section 82025(a).
- (15) A health screening report on the applicant as specified in Section 82065(g).
- (16) The fee for processing the application by the requested capacity as specified in Section 82036.
- (17) Such other information as may be required pursuant to Section 1520(g) of the Health and Safety Code.

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- (A) Health and Safety Code Section 1520(g) provides:

“(g) Any other information that may be required by the department for the proper administration and enforcement of this chapter.”

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- (e) The application shall be signed by the applicant.
- (1) If the applicant is a partnership, the application shall be signed by each partner.
- (2) If the applicant is a firm, association, corporation, limited liability company, county, city, public agency, or other governmental entity, the application shall be signed by the chief executive officer or authorized representative.

- (f) The application shall be filed with the licensing agency which serves the geographical area in which the facility/center is located.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1520, 1520.11, 1522, 1522.1, 1523, 1524.5, and 1560, Health and Safety Code.

1. Adopt new Section 82019 to read:
2. 15-Day Renote: Amend Section 82019 to read:

82019 CRIMINAL RECORD CLEARANCE

82019

- (a) The Department shall conduct a criminal record review of all persons as specified in Health and Safety Code Sections 1522(a) and (b) and shall have the authority to approve or deny a facility license, employment, residence, or presence in the facility, based on the results of the review.

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- (1) Section 1522(a) of the Health and Safety Code provides in part:

“(a) (1) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the State Department of Social Services shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

“(2) The criminal history information shall include the full criminal record, if any, of those persons,....

“(3) No fee shall be charged by the Department of Justice or the State Department of Social Services for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section.

“(4) The following shall apply to the criminal record information:

“(A) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

“(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) is awaiting trial for a crime other than a

minor traffic violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

“(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.”

(2) Section 1522(b)(1) of the Health and Safety Code provides in part:

“(b) (1) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

“(A) Adults responsible for administration or direct supervision of staff.

“(B) Any person, other than a client, residing in the facility.

“(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of his or her current certification, prior to providing care, to the community care facility. The facility shall maintain the copy of the certification on file as long as care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility pursuant to Section 1558.

“(D) Any staff person, volunteer, or employee who has contact with the clients.

“(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

“(F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.”

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(b) The following persons are exempt from the requirement to submit fingerprints:

- (1) A medical professional, as defined by the Department in regulations, who holds a valid license or certification from the individual's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee, if all of the following apply:

 - (A) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.
 - (B) The individual is providing time-limited specialized clinical care or services.
 - (C) The individual is providing care or services within the individual's scope of practice.
 - (D) The individual is not a community care facility licensee or an employee of the facility/center.
- (2) A third-party repair person, or similar retained contractor, if all of the following apply:

 - (A) The individual is hired for a defined, time-limited job.
 - (B) The individual is not left alone with clients.
 - (C) When clients are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.
- (3) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client of the facility/center, and are in the facility/center at the request of that client or resident's legal decision maker.

 - (A) The exemption shall not apply to a person who is a community care facility/center licensee or an employee of the facility/center.
- (4) Clergy and other spiritual caregivers who are performing services in common areas of the facility/center, or who are advising an individual client at the request of, or with the permission of, the client.

 - (A) This exemption shall not apply to a person who is a community care facility/center licensee or an employee of the facility/center.

- (5) Members of fraternal, service and similar organizations who conduct group activities for clients, if all of the following apply:
- (A) Members are not left alone with the clients.
 - (B) Members do not transport clients off the facility/center premises.
 - (C) The same group does not conduct such activities more often than once a month.
- (6) The following persons unless contraindicated by the client's individualized program plan (IPP), or needs and services plan:
- (A) A spouse, significant other, relative, close friend of a client.
 - (B) An attendant or facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained or contracted by the licensee.
 - (C) The exemptions in Section 82019(b)(6)(A) or (B) apply only if the person is visiting the client or providing direct care and supervision to the client.
 - (D) A volunteer, if all of the following apply:
 - 1. The volunteer is supervised by the licensee or a facility/center employee with a criminal record clearance or exemption.
 - 2. The volunteer is never left alone with clients.
 - 3. The volunteer does not provide any client assistance with dressing, grooming, bathing or personal hygiene other than washing of hands.
- (7) Nothing in this paragraph shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.
- (c) Prior to the Department issuing a license, the applicant and administrator shall obtain a California criminal record clearance or exemption as specified in Health and Safety Code Section 1522(a)(4).

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- (1) Health and Safety Code Section 1522(a)(4) provides in part:

“(a) (4) (E) An applicant and any other person specified in subdivision (b) shall submit a second set of fingerprints to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) meet all of the conditions for licensure, except receipt of the Federal Bureau of Investigation’s criminal history information for the applicant or any of the persons described in subdivision (b), the department may issue a license if the applicant and each person described in subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or any other person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1550. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.”

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- (d) Prior to employment or initial presence in the facility/center, all individuals subject to a criminal record review shall be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions that acknowledges and explains the criminal convictions. The declaration shall also acknowledge that his/her continued employment or presence in the facility/center is subject to approval of the Department as specified in Section 82065(i).
- (1) The licensee shall submit these fingerprints to the California Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or comply with the requirements of Section 82019(f), prior to the individual’s employment or initial presence in the community care facility.
 - (A) Fingerprints shall be submitted to the California Department of Justice by the licensee, or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the Department.
 - (B) A licensee’s failure to submit fingerprints to the California Department of Justice or to comply with Section 82019(f), shall result in the citation of a deficiency and an immediate assessment of civil penalties of one hundred dollars (\$100) per violation by the Department.
 - 1. The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1548.

2. The licensee shall then submit the fingerprints to the California Department of Justice for processing.
- (2) To continue to be employed or be present in a community care facility, each individual shall:
 - (A) Be exempted from fingerprinting by statute or regulation.
 - (B) Have a criminal record clearance or
 - (C) Have a criminal record exemption approved by the Department.
- (e) Unless otherwise exempted from the fingerprint requirements in Health and Safety Code Section 1522(b), any staff person, volunteer or employee who has client contact must submit fingerprints.
- (f) ~~An individual may request a~~ A transfer of ~~their~~ a criminal record clearance from one state licensed facility/center to another, or from TrustLine to a state licensed facility/center may be requested by an individual or a licensee by providing the following documents:
 - (1) A signed Criminal ~~Record Exemption~~ Background Clearance Transfer Request, LIC 91882.
 - (2) A copy of the individual's:
 - (A) Driver's license, or
 - (B) Valid identification card issued by the Department of Motor Vehicles, or
 - (C) Valid photo identification issued by another state or the United States government if the individual is not a California resident.
 - (3) Any other documentation required by the Department [e.g., LIC 508, Criminal Record Statement which is incorporated by reference, and job description].

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- (4) Health and Safety Code Section 1522(h)(2) provides:

“(h) (2) The State Department of Social Services shall hold criminal records clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.”

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- (g) If the criminal record transcript of the individuals specified in Health and Safety Code Section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for a crime other than a minor traffic violation, for which the fine was less than \$300, and an exemption pursuant to Section 82019.1(a) has not been granted, the Department will:
- (1) For initial applicants, deny the application.
 - (2) For current licensees, the Department may institute an administrative action, including but not limited to revocation of the license.
 - (3) For current or prospective employees, exclude the affected individual pursuant to Health and Safety Code Section 1558, deny the application or revoke the license if the individual continues to provide services at the facility/center.
 - (4) For convicted individuals residing in the facility/center, including spouses of the applicant, licensee, or employee, exclude the affected individual pursuant to Health and Safety Code Section 1558 and deny the application or revoke the license, if the individual continues to provide services in the facility/center.
- (h) The Department shall notify the licensee and the affected individual associated with the facility/center, in concurrent separate letters, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.

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- (1) Sections 1522(c)(3) and (4) of the Health and Safety Code provide in part:
- “(c) (3) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (g). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of

Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall be grounds for disciplining the licensee pursuant to Section 1550.

“(4) The department may issue an exemption on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.”

(2) Section 1522(e) of the Health and Safety Code provides in part:

“(e) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client....”

(3) Section 243.4 of the Penal Code provides in part:

“(a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

“(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison

for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).”

(4) Section 368 of the Penal Code provides in part:

“(b) (1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health is endangered, is punishable by imprisonment in a county jail not exceeding one year, or by a fine not to exceed six thousand dollars (\$6,000), or by both that fine and imprisonment, or in the state prison for two, three, or four years.

“(c) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor.”

(5) Section 1522(c) of the Health and Safety Code provides in part:

“(c) (3) ...If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered....”

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- (i) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of employees in the individual’s personnel file as required in Section 82066.

- (j) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of volunteers that require fingerprinting.
 - (1) Documentation shall be available for inspection by the Department.
- (k) Any individual who is required to obtain or has obtained a criminal record clearance or exemption as a condition of association with, or licensure of, a facility shall report to the Department by telephone any subsequent arrest, conviction, or parole or probation violation within 48 hours of the event.
 - (1) Confirmation of the telephone report must be made in writing to the Department within seven calendar days. The written report shall include the following:
 - (A) The law enforcement agency and court involved;
 - (B) A detailed description of the events leading to the arrest, conviction, or parole or probation violation;
 - (C) The individual's current and pending legal involvement; and
 - (D) The individual's current address and phone number.
- (l) The Department shall seek verification of an individual's criminal record as reported to the Department from any member of the public or affected individual.
 - (1) Upon obtaining confirmation of the offense, the Department shall proceed as if this criminal record information was provided by the California Department of Justice.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1503.5, 1505, 1508, 1522, 1531, 1533, 1538, 1540, 1540.1, 1541, 1547, 1549, and 1564, Health and Safety Code.

1. Adopt new Section 82019.1 to read:
2. 15-Day Renote: Amend Section 82019.1 to read:

82019.1 CRIMINAL RECORD EXEMPTION

82019.1

- (a) After a review of the criminal record transcript, the Department may grant an exemption from Section 82019(c) or (d)(2) if:
 - (1) The applicant/licensee requests an exemption in writing for himself or herself or
 - (2) The applicant/licensee requests an exemption in writing for an individual associated with the facility/center or
 - (3) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, the affected individual requests an individual exemption in writing, and
 - (4) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment, or presence in a licensed facility/center.
- (b) Individuals who submit a criminal record exemption request shall cooperate with the Department by providing the information required by Section 82019.1(a)(4) and any other information needed by the Department to process the exemption request, pursuant to Section 82019.1(d).
- (c) If a request for exemption is incomplete the Department shall, within 30 days of receipt of the individual's exemption request, give written notice to the requestor that the request is deficient:
 - (1) The written notice shall:
 - (A) Describe the documents or information are outstanding and/or inadequate, and
 - (B) Inform the requester that the information must be submitted within ten days of the date of notice.
 - (2) If the requestor is an employee or resident other than a spouse or a dependent family member and the requestor does not submit the information requested in the Department's written notice within ten days of the date of the notice, the Department shall cease processing the exemption request and close the case.

- (3) If the requestor is an applicant, licensee, spouse or dependent family member, and the requestor does not submit the information requested in the Department's written notice within ten days of the date of the notice, the Department shall deny the exemption request.
- (d) The Department shall consider factors including, but not limited, to the following as evidence of good character and rehabilitation:
- (1) The nature of the crime.
 - (2) Period of time since the crime was committed and number of offenses.
 - (3) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
 - (4) Activities since conviction, including employment, evidence of honesty or participation in therapy or education, that would indicate changed behavior.
 - (5) Granting by the Governor of a full and unconditional pardon.
 - (6) Character references.
 - (7) A certificate of rehabilitation from a superior court.
 - (8) Evidence of honesty and truthfulness as revealed in exemption application documents.
 - (A) Documents include, but are not limited to:
 1. A Criminal Record Statement (LIC 508) and
 2. The individual's written statement/explanation of the conviction and the circumstances about the arrest.
 - (9) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations with the Department.
- (e) The Department may deny an exemption request if:
- (1) The licensee and/or the affected individual fails to provide documents requested by the Department or
 - (2) The licensee and/or the affected individual fails to cooperate with the Department in the exemption process.

- (f) The reasons for any exemption granted or denied shall be in writing and kept by the Department.
- (g) The Department has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed facility.
- (h) The Department shall presume an individual not to be rehabilitated on the character trait of honesty, and may therefore deny or rescind the individual's criminal record exemptions, if the individual makes a knowingly false or misleading statement regarding:

 - (1) Material relevant to their application for a criminal record clearance or exemption,
 - (2) His or her criminal record clearance or exemption status to obtain employment or permission to be present in a licensed facility, after the Department has ordered that they be excluded from any or all licensed facilities, or
 - (3) His or her criminal record clearance or exemption status in order to obtain a position with duties that are prohibited to him/her by a conditional exemption.
- (i) The Department shall consider granting a criminal record exemption when the individual's criminal record history meets one of the criteria specified in Sections 82019.1(i)(1) through (9) and the individual provides the Department with substantial and convincing evidence of good character as specified in Section 82019.1(bd).

 - (1) The individual has been convicted of three or fewer nonviolent misdemeanors, and has demonstrated one year without a subsequent criminal conviction after completing the most recent period of incarceration, probation or parole.

 - (A) If an individual has been convicted of either Penal Code Section 273(g) or Penal Code Section 646.9(a), they must demonstrate five consecutive years without a subsequent criminal conviction after completing the most recent period of incarceration, probation or parole.
 - (2) The individual has been convicted of four or more nonviolent misdemeanors and has demonstrated four consecutive years without a subsequent criminal conviction after completing the most recent period of incarceration, probation or parole.
 - (3) The individual has been convicted of one violent misdemeanor and has demonstrated four consecutive years without a subsequent criminal conviction after completing the most recent period of incarceration, probation or parole.

- (4) The individual has been convicted of two or more violent misdemeanors and has demonstrated seven consecutive years without a subsequent criminal conviction after completing the most recent period of incarceration, probation or parole.
- (5) The individual has been convicted of two or fewer nonviolent felonies and has demonstrated four consecutive years without a subsequent criminal conviction after completing the most recent period of incarceration, probation or parole.
- (6) The individual has been convicted of three nonviolent felonies and has demonstrated seven consecutive years without a subsequent criminal conviction after completing the most recent period of incarceration, probation or parole.
- (7) The individual has been convicted of four or more nonviolent felonies and has demonstrated ten consecutive years without a subsequent criminal conviction after completing the most recent period of incarceration, probation or parole.
- (8) The individual has been convicted of two or fewer violent felonies and has demonstrated ten consecutive years without a subsequent criminal conviction after completing the most recent period of incarceration, probation or parole.
- (9) The individual has been convicted of three or more violent felonies and has demonstrated 20 consecutive years without a subsequent criminal conviction after completing the most recent period of incarceration, probation or parole.
- (j) The failure of an individual to meet the time requirements specified in Sections 82019.1(i)(1) through (9) shall be presumptive evidence that the individual has not demonstrated to the Department substantial and convincing evidence of rehabilitation.
- (k) The Department shall not grant an exemption if the individual has a conviction for any offense specified in Section 1522 (g)(1) of the Health and Safety Code.

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Health and Safety Code Section 1522(g)(1) provides that no exemption shall be granted if an individual has been convicted of any of the following offenses:

- (1) Penal Code Sections 186.22 and 136.1 – Gang related/Intimidation of witnesses or victims.
- (2) Penal Code Sections 187, 190 through 190.4 and 192(a) – Any murder/Attempted murder/Voluntary manslaughter.
- (3) Penal Code Section 203 – Any mayhem.

- (4) Penal Code Section 206 - Felony torture.
- (5) Penal Code Sections 207, 208, 209, 209.5, 210 - Kidnapping.
- (6) Penal Code Sections 211, ~~212~~, 212.5, 213, 214 - Any robbery.
- (7) Penal Code Section 215 - Carjacking.
- (8) Penal Code Section 220 - Assault with intent to commit mayhem, rape, sodomy or oral copulation.
- (9) Penal Code Section 243.4 - Sexual battery.
- (10) Penal Code Section 261(a), (a)(1), (2), (3), (4) or (6) - Rape.
- (11) Penal Code Section 262(a)(1) or (4) - Rape of a spouse.
- (12) Penal Code Section 264.1 - Rape in concert.
- (13) Penal Code Section 266 - Enticing a minor into prostitution.
- (14) Penal Code Section 266c - Induce to sexual intercourse, etc. by fear or consent through fraud.
- (15) Penal Code Section 266h(b) - Pimping a minor.
- (16) Penal Code Section 266i(b) - Pandering a minor.
- (17) Penal Code Section 266j - Providing a minor under 16 for lewd or lascivious act.
- (18) Penal Code Section 267 - Abduction for prostitution.
- (19) Penal Code Section 269 - Aggravated assault of a child.
- (20) Penal Code Section 272 - Contributing to the delinquency of a minor (must involve lewd or lascivious conduct).
- (21) Penal Code Section 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994] - Willfully causing or permitting any child to suffer under circumstances or conditions likely to produce great bodily harm or death.
- (22) Penal Code Section 273d - Willfully inflicting any cruel or inhuman corporal punishment or injury on a child.

- (23) Penal Code Section 285 – Incest.
- (24) Penal Code Section 286 – Sodomy.
- (25) Penal Code Section 288 – Lewd or lascivious act upon a child under 14.
- (26) Penal Code Section 288a – Oral copulation.
- (27) Penal Code Section 288.2 – Felony conviction for distributing lewd material to children.
- (28) Penal Code Section 288.5(a) – Continuous sexual abuse of a child.
- (29) Penal Code Section 289 – Genital or anal penetration by any foreign object.
- (30) Penal Code Section 290(a) – All crimes for which one must register as a sex offender including attempts and not guilty by insanity.
- (31) Penal Code Section 311.2(b), (c) or (d) – Transporting or distributing child-related pornography.
- (32) Penal Code Section 311.3 – Sexual exploitation of a child.
- (33) Penal Code Section 311.4 – Using a minor to assist in making or distributing child pornography.
- (34) Penal Code Section 311.10 – Advertising or distributing child pornography.
- (35) Penal Code Section 311.11 – Possessing child pornography.
- (36) Penal Code Section 314~~(1) or (2)~~ – Lewd or obscene exposure of private parts.
- (37) Penal Code Section 347(a) – Poisoning or adulterating food, drink, medicine, pharmaceutical products, spring, well, ~~or~~ reservoir or public water supply.
- (38) Penal Code Section 368~~(b) or (c)~~ if after January 1, 1999 – Elder or dependent adult abuse.
- (39) Penal Code Section 417(b) – Drawing, exhibiting or using a loaded firearm ~~or~~ deadly weapon.
- (40) Penal Code Section 451(a) or (b) – Arson.
- (41) Penal Code Section 460(a) – First degree burglary.

- (42) Penal Code Sections 186.22 and 518 – Gang related/Extortion.
 - (43) Penal Code Section 647.6 or prior to 1987~~8~~ former Section 647a – Annoy or molest a child under 18.
 - (44) Penal Code Section 653f(c) – Solicit another to commit rape, sodomy, etc.
 - (45) Penal Code Sections 664/187 – Any attempted murder.
 - (46) Penal Code Section 667.5(c)(7) – Any felony punishable by death or imprisonment in the state prison for life.
 - (47) Penal Code Section 667.5(c)(8) – Enhancement for any felony which inflicts great bodily injury.
 - (48) Penal Code Section 667.5(c)(13) – Enhancement for violation of Penal Code Section 12308, 12309 or 12310 – exploding or igniting or attempting to explode or ignite any destructive device or explosive with intent to commit murder.
 - (49) Penal Code Section 667.5(c)(14) - Any kidnapping – Penal Code Sections 207, 208, 209, 209.5 and 210.
 - (50) Penal Code Section 667.5(c)(22) - Any violation of Penal Code Section 12022.53 – Enhancement for listed felonies where use of a firearm.
 - (51) Business and Professions Code Section 729 – Felony sexual exploitation by a physician, psychotherapist, counselor, etc.
- * See Health and Safety Code Section 1522(g)(1) for exception.

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- (1) The Department shall consider granting a simplified criminal record exemption if the individual has the criminal history profile outlined in Sections 82019.1(l)(1) through (5):
 - (1) The Department does not have evidence that the individual may have behavioral problems that could threaten or endanger the health and safety of clients;
 - (2) The individual does not have a demonstrated pattern of convictions resulting from impaired judgment such as drug or substance abuse convictions or convictions as a result of drug or substance use;

- (3) The individual has no more than one misdemeanor conviction of driving while under the influence of alcohol with no injury to others and it has been at least three years since the completion of the most recent period of incarceration, probation or parole, notwithstanding Section 82019.1(l)(4) below; and
- (4) The individual has two or fewer misdemeanor convictions of any crime listed in Sections 82019.1(l)(4)(A) through (F) and it has been at least three consecutive years without a subsequent criminal conviction after completion of the most recent period of incarceration, probation or parole;

 - (A) Vandalism,
 - (B) Perjury,
 - (C) Welfare fraud,
 - (D) Trespassing,
 - (E) False identification to a police officer, or
 - (F) Any misdemeanor that does not involve injury or harm to other individuals; or,
- (5) The individual has three misdemeanor convictions of any crime listed in Sections 82019.1(l)(5)(A) through (F) and it has been at least ten consecutive years without a subsequent criminal conviction after completion of the most recent period of incarceration, probation or parole;

 - (A) Vandalism,
 - (B) Perjury,
 - (C) Welfare fraud,
 - (D) Trespassing,
 - (E) False identification to a police officer, or
 - (F) Any misdemeanor that does not involve injury or harm to other individuals.
- (m) At the Department's discretion, an individual who is otherwise eligible for a simplified exemption may be required to go through the standard exemption process if the Department determines such action will help to protect the health and safety of clients.

- (n) If the Department denies or cannot grant a criminal record exemption the Department shall:
- (1) For initial applicants, deny the application.
 - (2) For current licensees, the Department may institute an administrative action, including but not limited to revocation of the license.
 - (3) For current or prospective employees, exclude the affected individual pursuant to Health and Safety Code Section 1558, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility/center.
 - (4) For individuals residing in the facility/center, including spouses of the applicant, licensee, or employee, exclude the affected individual pursuant to Health and Safety Code Section 1558, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility/center.
- (o) An individual with a denied criminal record exemption may not reapply for an exemption for one year after the most recent denial date.
- (1) If the individual appeals the exemption denial and the Department's denial is upheld in an administrative proceeding, the individual may not reapply for an exemption for one year after the effective date of the Decision and Order resulting from the administrative proceeding.
 - (2) While the Department is conducting the review of a subsequent exemption request, the individual may not be employed or present in a licensed facility.
- (p) ~~An individual who has been granted an exemption to work or be present in a State licensed facility may request a transfer of the exemption to another state licensed facility by providing the following documents:~~ A transfer of a criminal record exemption, granted to an individual to work or be present in a state licensed facility, to another state licensed facility may be requested by the individual or the licensee by providing the following documents to the Department.
- (1) A signed Criminal Record Exemption Transfer Request, LIC 9188 ~~to the Department.~~
 - (2) A copy of the individual's:
 - (A) Driver's license,
 - (B) Valid identification card issued by the Department of Motor Vehicles, or

- (C) Valid photo identification issued by another state or the United States Government if the individual is not a California resident.
- (3) Any other documentation required by the Department [i.e. LIC 508, Criminal Record Statement and job description].
- (q) The Department shall consider factors including, but not limited to, the following in determining whether or not to approve an exemption transfer:
 - (1) The basis on which the Department granted the exemption;
 - (2) The nature and frequency of client contact in the new position;
 - (3) The category of facility where the individual wishes to transfer;
 - (4) The type of clients in the facility where the individual wishes to transfer;
 - (5) Whether the exemption was appropriately evaluated and granted in accordance with existing exemption laws, regulations ~~or policy~~; or
 - (6) Whether the exemption meets current exemption laws, ~~or regulations~~ ~~or policy~~.
- (r) If the Department denies the individual's request to transfer a criminal record exemption, the Department shall provide the individual and the licensee with written notification of the Department's decision and informs the affected individual of their right to an administrative hearing to contest the Department's decision.
- (s) At the Department's discretion, an exemption may be rescinded if it is determined that the exemption was granted in error or that the exemption does not meet current exemption laws, regulations ~~or policy~~.
- (t) If the Department rescinds an exemption the Department shall:
 - (1) Notify the licensee and the affected individual in writing; and
 - (2) Initiate the appropriate administrative action.
- (u) The Department may rescind an individual's criminal record exemption if the Department obtains evidence showing that the individual engaged in conduct that is inconsistent with the good character requirement of a criminal record exemption, as evidenced by factors including, but not limited to; the following:
 - (1) Violations of licensing laws or regulations;

- (2) Any conduct by the individual that indicates that the individual may pose a risk to the health and safety of any individual who is or may be a client;
 - (3) Nondisclosure of a conviction or evidence of lack of rehabilitation that the individual failed to disclose to the Department, even if it occurred before the exemption was issued; or
 - (4) The individual is convicted of a subsequent crime.
- (v) If the Department rescinds an exemption the Department shall:
 - (1) Notify the licensee and the affected individual in writing; and
 - (2) Initiate the appropriate administrative action.
- (w) If the Department learns that an individual with a criminal record clearance or exemption has been convicted of a subsequent crime, the Department, at its sole discretion, may immediately initiate the appropriate administrative action to protect the health and safety of clients, ~~without permitting the individual to apply for another or new criminal record exemption. The administrative action process shall constitute the exemption process.~~

Authority cited: Sections 1522 and 1530, Health and Safety Code.

Reference: Sections 1522, 1531, and 1564, Health and Safety Code.

Adopt new Section 82020 to read:

82020 FIRE CLEARANCE

82020

- (a) All facilities/centers shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.

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- (1) The request for fire clearance shall be made through and maintained by the licensing agency.

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- (b) The applicant shall notify the licensing agency if the facility/center plans to admit any of the following categories of clients so that an appropriate fire clearance, approved by the city or county, fire department, the district providing fire protection services, or the State Fire Marshal, can be obtained prior to the acceptance of such clients:

- (1) Persons over 65 years of age.
- (2) Persons who are nonambulatory as defined in Section 82001(n)(2).

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- (A) Persons who use postural supports pursuant to Section 82072(a)(8) are nonambulatory.

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Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1520, 1528, and 1531, Health and Safety Code.

1. Adopt new Section 82021 to read:
2. 15-Day Renote: Amend Section 82021(a)(2) to read:

82021 WATER SUPPLY CLEARANCE

82021

(a) All adult day programs where water for human consumption is from a private source shall meet the following requirements:

- (1) As a condition of initial licensure, the applicant shall provide evidence of an on-site inspection of the source of the water and a bacteriological analysis which establishes the safety of the water, conducted by the local health department, the California Department of Health Services or a licensed commercial laboratory.
- (2) Subsequent to initial licensure, the licensee shall provide evidence of a bacteriological analysis of the private water supply as frequently as is necessary to ensure the safety of the clients, but no less frequently than specified in the following table:

<u>LICENSED CAPACITY</u>	<u>ANALYSIS REQUIRED</u>	<u>PERIODIC SUBSEQUENT ANALYSIS</u>
<u>6 or fewer</u>	<u>Initial Licensing</u>	<u>Not required unless evidence supports the need for such analysis to protect clients.</u>
<u>7 through 15</u>	<u>Initial Licensing</u>	<u>Annually</u>
<u>16 through 24</u>	<u>Initial Licensing</u>	<u>Semiannually</u>
<u>25 or more</u>	<u>Initial Licensing</u>	<u>Quarterly</u>

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1520, 1528, and 1531, Health and Safety Code.

Adopt new Section 82022 and renumber Sections 82522(b)(1), (2) and (3) to Sections 82022(b)(3), (4), and (5), and Section 82522(c) to Section 82022(h) and amend to read:

82022 PLAN OF OPERATION

82022

(a) Each licensee of an adult day program shall have and maintain on file a current, written, definitive plan of operation.

(b) The plan and related materials shall contain the following:

(1) Statement of purposes, and program methods and goals.

(2) Statement of admission policies and procedures regarding acceptance of clients.

~~82522(b)~~

(3) Description of services to be provided.

(4) Hours of operation consistent with the plan of operation and program purpose and goals.

(5) Description of the ~~participant~~ client group to be served.

(6) A copy of the admission agreement.

(7) Administrative organization, if applicable.

(8) Staffing plan, qualifications, and duties.

(9) Plan for in-service education of staff, if required by regulations.

(10) A sketch of the building(s) to be occupied, including a floor plan which describes the capacities of the buildings for the uses intended, room dimensions, and a designation of the rooms to be used for nonambulatory clients, if any.

(11) A sketch of the grounds showing buildings, driveways, fences, storage areas, pools, gardens, recreation areas, and other space used by the clients.

(A) The sketch shall include the dimensions of all areas which will be used by the clients.

(12) In facilities/centers providing meals to clients, sample menus and a schedule for one calendar week indicating the time of day that meals and snacks are to be served.

- (13) Transportation arrangements for clients who do not have independent arrangements.
- (14) Fee policy including, but not limited to, policy on refunds.
- (15) A statement whether or not the licensee will handle the clients' money, personal property, and/or valuables. If money, personal property, and/or valuables will be handled, the method for safeguarding shall ensure compliance with Sections 82025 and 82026.
- (16) Consultant and community resources to be utilized by the facility/center as part of its program.
- (17) A statement of the facility's/center's policy concerning family visits and other communications with the client pursuant to Health and Safety Code Section 1512.

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- (A) Section 1512 of the Health and Safety Code provides in part:

“The community care facility’s policy concerning family visits and communication shall be designed to encourage regular family involvement with the ... client and shall provide ample opportunities for family participation in activities at the facility.”

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- (c) If the licensee intends to admit or care for one or more clients who have a restricted health condition specified in Section 82092, the facility/center policies and a program description shall be included. At a minimum, the information related to those clients and their needs shall specify all of the following:
- (1) The type of restricted health condition that the licensee plans to admit.
 - (2) The licensee's plans for serving that client.
- (A) If the licensee plans to admit or care for one or more clients who have a staph or other serious, communicable infection, the plan must include:
- 1. A statement that all staff will receive training in universal precautions within the first 10 days of employment, and before providing care to these clients.

- (2). A statement of how the licensee will ensure that the training is obtained, and the name and qualifications of the person or organization that will provide the training.
 - (3) The services that will be provided.
 - (4) Staffing adjustments if needed in order to provide the proposed services.
 - (A) This may include increased staffing, hiring staff with additional or different qualifications, utilizing licensed professionals as consultants, or hiring licensed professionals.
 - (d) If the licensee intends to admit or care for one or more clients who rely upon others to perform all activities of daily living, the plan of operation must also include a statement that demonstrates the licensee's ability to care for these clients. The evidence or ability may include, but not be limited to:
 - (1) The licensee's experience in providing care to these clients.
 - (2) The licensee's experience providing care to a family member with this condition.
 - (3) The licensee's plan to hire staff who have experience providing care to these clients, and documentation of what the staff person's experience has been.
 - (4) Documentation of training the licensee and/or staff have completed specific to the needs of these clients.
 - (5) History of continued placements by a regional center.
 - (e) If the licensee intends to admit and/or specialize in care for one or more clients who have a propensity for behaviors that result in harm to self or others, the facility/center plan of operation shall include a description of precautions that will be taken to protect that client and all other clients.
 - (f) Any changes in the plan of operation which affect the services to clients shall be subject to licensing agency approval and shall be reported as specified in Section 82061.
 - (g) The facility/center shall operate in accordance with the terms specified in the plan of operation and may be cited for not doing so.
 - (h) In addition to the requirements in Sections 82022(a) through (g), the plan of operation for adult day support centers shall contain

82522

- (e) ~~Each adult day support center shall have, in writing,~~ a plan for internal evaluation of its operation and services. The plan shall include a timetable for completing an annual evaluation, the areas that will be addressed in this evaluation, and the methodology to be used. A copy of the final annual evaluation shall be kept on file at the center and shall be available to the licensing agency during site visits.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1507, 1512, 1520, 1528, 1531, and 1531.1, Health and Safety Code.

Adopt new Section 82023 to read:

82023 DISASTER AND MASS CASUALTY PLAN

82023

- (a) Each licensee shall have and maintain on file a current, written disaster and mass casualty plan of action.
- (b) The plan shall be subject to review by the licensing agency and shall include:
 - (1) Designation of administrative authority and staff assignments.
 - (2) Contingency plans for action during fires, floods, and earthquakes including, but not limited to, the following:
 - (A) Means of exiting.
 - (B) Transportation arrangements.
 - (C) Relocation sites which are equipped to provide safe temporary accommodation for clients.
 - (D) Arrangements for supervision of clients during evacuation or relocation, and for contact after relocation to ensure that relocation has been completed as planned.
 - (E) Means of contacting local agencies including, but not limited to, the fire department, law enforcement agencies, and civil defense and other disaster authorities.
- (c) The licensee shall instruct all clients, age and abilities permitting, all staff, and/or volunteers in their duties and responsibilities under the plan.
- (d) Disaster drills shall be conducted at least every six months.
 - (1) Completion of such drills shall not require travel away from the facility/center grounds or contact with local disaster agencies.
 - (2) The drills shall be documented and the documentation maintained in the facility/center for at least one year.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1520, 1528, and 1531, Health and Safety Code.

Adopt new Section 82024 to read:

82024 WAIVERS AND EXCEPTIONS

82024

- (a) Unless prior written licensing agency approval is received as specified in Section 82024(b), all licensees shall maintain continuous compliance with the licensing regulations.
- (b) The licensing agency shall have the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the conduct of experimental or demonstration projects under the following circumstances:
 - (1) Such alternatives shall be carried out with provisions for safe and adequate services, and shall in no instance be detrimental to the health and safety of any facility/center client.
 - (2) The applicant or licensee shall submit to the licensing agency a written request for a waiver or exception, together with substantiating evidence supporting the request.

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- (3) In determining the merits of each request, the licensing agency shall use as guidelines the standards utilized or recommended by well-recognized state and national organizations, as available or determined appropriate by the licensing agency.

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- (4) The licensing agency shall provide written approval or denial of the request.
- (c) Within 30 days of receipt of a request for a waiver or an exception, the licensing agency shall notify the applicant or licensee, in writing, of one of the following:
 - (1) The request with substantiating evidence has been received and accepted for consideration.
 - (2) The request is deficient, describing additional information required for the request to be acceptable and a time frame for submitting this information.
 - (A) Failure of the applicant or licensee to comply within the time as specified in Section 82024(c)(2) shall result in denial of the request.

- (d) Within 30 days of receipt of an acceptable request for a waiver or an exception, the licensing agency shall notify the applicant or licensee, in writing, whether the request has been approved or denied.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1509, and 1531, Health and Safety Code; and Section 15376, Government Code.

Adopt new Section 82025 to read:

82025 BONDING

82025

- (a) The licensee shall submit an affidavit, on a form provided by the licensing agency, stating whether he/she safeguards or will safeguard cash resources of clients and the maximum amount of cash resources to be safeguarded for all clients or each client in any month.
- (b) All licensees, other than governmental entities, who are entrusted to care for and control clients' cash resources shall file or have on file with the licensing agency, a bond issued by a surety company to the State of California as principal.
- (c) The amount of the bond shall be according to the following schedule:

<u>AMOUNT SAFEGUARDED PER MONTH</u>	<u>BOND REQUIRED</u>
<u>\$750 or less</u>	<u>\$1,000</u>
<u>\$751 to \$1,500</u>	<u>\$2,000</u>
<u>\$1,501 to \$2,500</u>	<u>\$3,000</u>

Every further increment of \$1,000 or fraction thereof shall require an additional \$1,000 on the bond.

- (d) The licensee shall submit a new affidavit and bond to the licensing agency prior to the licensee safeguarding amounts of clients' cash resources in excess of the current bond.
- (e) Whenever the licensing agency determines that the amount of the bond is insufficient to provide necessary protection of clients' cash resources, or whenever the amount of any bond is impaired by any recovery against the bond, the licensing agency shall have the authority to require the licensee to file an additional bond in such amount as the licensing agency determines to be necessary to protect the clients' cash resources.

Authority cited: Sections 1523, 1524, and 1530, Health and Safety Code.

Reference: Sections 1523, 1524, 1560, and 1561, Health ad Safety Code.

Adopt new Section 82026 to read:

82026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, 82026
AND VALUABLES

- (a) A licensee shall not be required to accept for admission or continue to care for any client whose incapacities, as documented by the initial or subsequent needs appraisals, would require the licensee to handle such client's cash resources.
- (b) If such a client is accepted or maintained in care, his/her cash resources, personal property, and valuables not handled by a person outside the facility/center who has been designated by the client or his/her authorized representative shall be handled by the licensee or facility/center staff, and shall be safeguarded in accordance with the requirements as specified in Sections 82026(c) through (n).
- (c) No licensee or employee of a licensee shall:
 - (1) accept appointment as a guardian or conservator of the person and/or estate of any client;
 - (2) accept any general or special power of attorney except for Medi-Cal or Medicare claims for any client, and
 - (3) become the substitute payee for any payments made to any client.
 - (A) This requirement does not apply to a licensee who is appointed by the Social Security or Veterans Administrations as representative payee for the client.
 - (4) become the joint tenant on any account as specified in Section 82026(i) with a client.
- (d) Cash resources, personal property, and valuables of clients handled by the licensee shall be free from any liability the licensee incurs.
- (e) Cash resources, personal property, and valuables of clients shall be separate and intact, and shall not be commingled with facility/center funds or petty cash.
 - (1) The above requirement shall not prohibit the licensee from providing advances or loans to clients from facility/center funds.
 - (A) Documentation of such transactions shall be maintained in the facility/center.

- (f) The licensee or employee of a licensee shall not make expenditures from clients' cash resources for any basic services in these regulations, or for any basic services identified in a contract/admission agreement between the client and the licensee.
 - (1) This requirement does not apply to a licensee who is appointed by the Social Security or Veterans Administrations as representative payee for the client.
- (g) The licensee shall not commingle cash resources and valuables of clients with those of another community care facility of a different license number regardless of joint ownership.
- (h) Each licensee shall maintain accurate records of accounts of cash resources, personal property, and valuables entrusted to his/her care including, but not limited to, the following:
 - (1) Records of clients' cash resources maintained as a drawing account, which shall include a current ledger accounting, with columns for income, disbursements and balance, for each client. Supporting receipts for purchases shall be filed in chronological order.
 - (A) Receipts for cash provided to any client from his/her account(s) shall include the client's full signature or mark, or authorized representative's full signature or mark, and a statement acknowledging receipt of the amount and date received, as follows:

“(full signature of client) accepts (dollar amount) (amount written cursive), this date (date), from (payor).”
 - (B) The store receipt shall constitute the receipt for purchases made for the client from his/her account.
 - (C) The original receipt for cash resources, personal property or valuables entrusted to the licensee shall be provided to the client's authorized representative, if any, otherwise to the client.
 - (2) Bank records for transactions of cash resources deposited in and drawn from the account as specified in Section 82026(i).
- (i) Immediately upon admission of a client, all of his/her cash resources entrusted to the licensee and not kept in the licensed facility/center shall be deposited in any type of bank, savings and loan, or credit union account meeting the following requirements:
 - (1) The account shall be maintained as a trust account separate from the personal or business accounts of the licensee.

- (2) The account title shall clearly note that the account contains client cash resources.
- (3) The licensee shall provide access to the cash resources upon demand by the client or his/her authorized representative.
- (4) The account shall be maintained in a local bank, savings and loan or credit union authorized to do business in California, the deposits of which are insured by a branch of the federal government.
 - (A) A local public agency shall have the authority to deposit such cash resources with the public treasurer.
- (j) Cash resources entrusted to the licensee and kept on the facility/center premises, shall be kept in a locked and secure location.
- (k) Upon discharge of a client, all cash resources, personal property, and valuables of that client which have been entrusted to the licensee shall be surrendered to the client, or his/her authorized representative, if any.
 - (1) The licensee shall obtain and retain a receipt signed by the client or his/her authorized representative.
- (l) Upon the death of a client, all cash resources, personal property and valuables of that client shall immediately be safeguarded in accordance with the following requirements:
 - (1) All cash resources shall be placed in an account as specified in Section 82026(i).
 - (2) The executor or the administrator of the estate shall be notified by the licensee of the client's death, and the cash resources, personal property, and valuables shall be surrendered to said party in exchange for a signed, itemized receipt.
 - (3) If no executor or administrator has been appointed, the authorized representative, if any, shall be notified by the licensee of the client's death, and the cash resources, personal property, and valuables shall be surrendered to said person in exchange for a signed, itemized receipt.
 - (4) If the licensee is unable to notify a responsible party as specified in Section 82026(l)(2) or (3), the licensee shall give immediate written notice of the client's death to the public administrator of the county as provided in Section 7600.5 of the California Probate Code.
- (m) The following requirements shall be met whenever there is a proposed change of licensee:

- (1) The licensee shall notify the licensing agency of any pending change of licensee, and shall provide the licensing agency an accounting of each client's cash resources, personal property and valuables entrusted to his/her care.

 - (A) Such accounting shall be made on forms provided or approved by the licensing agency.
- (2) Provided the licensing agency approves the application for the new licensee, the forms as specified in Section 82026(m)(1)(A) shall be updated, signed by both the former and new licensee, and forwarded to the licensing agency.
- (n) The licensee shall maintain a record of all monetary gifts and of any other gift exceeding an estimated value of \$100, provided by or on behalf of a client to the licensee, administrator, or staff.

 - (1) The record shall be attached to the account(s) as specified in Section 82026(h) if the client's cash resources, personal property or valuables have been entrusted to the licensee.
 - (2) Monetary gifts or valuables given by the friends or relatives of a deceased client shall not be subject to the requirements as specified in Sections 82026(n) and (n)(1).

Authority cited: Sections 1523, 1524, and 1530, Health and Safety Code.

Reference: Sections 1501, 1523, 1524, 1531, and 1560, Health and Safety Code; and 20 CFR 416.601.

Adopt new Section 82027 to read:

82027 INITIAL APPLICATION REVIEW

82027

- (a) Within 90 days of receipt of the application by the licensing agency, the licensing agency shall give written notice to the applicant of one of the following:
- (1) The application is complete.
- (2) The application is deficient, describing what documents are outstanding and/or inadequate, and informing the applicant that the information must be submitted within 30 days of the date of the notice.
- (b) If the applicant does not submit the information requested within the 30 days as specified in Section 82027(a)(2), the application shall be deemed withdrawn provided that the licensing agency has not denied or taken action to deny the application.
- (1) The above requirement shall not apply to facilities/centers under construction.
- (c) The licensing agency shall cease review of any application under the conditions as specified in Section 1520.3 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1520.3 provides in part:

“(a) (1) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.

“ ...

“(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of

subdivision (a) and the application was denied within the last year, the department shall cease further review of the application as follows:

“(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

“(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

“(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence.”

HANDBOOK ENDS HERE

(2) The circumstances and conditions in which the licensing agency may continue to review a previously denied application shall include, but are not limited to the following:

(A) A fire clearance previously denied, but now approved;

(B) An administrator who did not meet the minimum qualifications, but now fulfills the qualifications; or

(C) A person with a criminal record, which was the basis for license denial, is no longer associated with the facility/center.

(3) This review shall not constitute approval of the application.

(4) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code Section 1520.3.

(5) The application processing fee shall be non-refundable as specified in Section 82036(d).

HANDBOOK BEGINS HERE

(d) The licensing agency shall complete the following as part of the application review process:

- (1) A site visit to the proposed facility/center and a determination of the qualifications of the applicant.
- (2) A determination that the applicant has secured an appropriate fire clearance from the State Fire Marshal, if required.
- (3) A determination that the applicant has the ability to comply with the provisions of the Community Care Facilities Act and the regulations in this division as specified in Health and Safety Code Section 1520.
- (4) A determination that the facility/center complies with the provisions of the Community Care Facilities Act and the regulations in this division.

HANDBOOK ENDS HERE

Authority cited: Sections 1524 and 1530, Health and Safety Code.

Reference: Sections 1520, 1520.3, 1522.1, 1523, and 1524, Health and Safety Code; and Section 15376, Government Code.

Adopt new Section 82028 to read:

82028 CAPACITY DETERMINATION

82028

- (a) A license shall be issued for a specific capacity.
- (b) The number of persons for whom the facility/center is licensed to provide care and supervision shall be determined on the basis of the application review by the licensing agency, which shall take into consideration the following:
 - (1) The fire clearance as specified in Section 82020.
 - (2) The licensee's/administrator's ability to comply with applicable law and regulation.
 - (3) Physical features of the facility/center, including available living space, which are necessary in order to comply with regulations.
 - (4) Number of available staff to meet the care and supervision needs of the clients.
 - (5) Any restrictions pertaining to the specific category of facility/center.
- (c) When the license is issued for fewer clients than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's rights to appeal the decision as specified in Section 82040.
- (d) The licensing agency shall have the authority to decrease existing licensed capacity with the licensee's agreement, when there is a change in any of the factors as specified in Section 82028(b).
 - (1) If the licensee does not agree to the decrease in capacity, the licensing agency shall have the authority to initiate revocation action as specified in Section 82042.
- (e) The licensing agency shall be authorized to restrict care to specific individuals.
 - (1) If care and supervision is limited to specific individuals, the licensing agency shall specify the names of the individuals in a letter to the licensee.
 - (2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision as specified in Section 82040.

Authority cited: Section 1530, Health and Safety Code and Section 10554, Welfare and Institutions Code.

Reference: Sections 1501, 1523, 1524, 1528, and 1531, Health and Safety Code and Section 11465, Welfare and Institutions Code.

Adopt new Section 82029 to read:

82029 WITHDRAWAL OF APPLICATION

82029

(a) An applicant shall have the right to withdraw an application.

(1) Such withdrawal shall be in writing.

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1553 provides in part:

“The withdrawal of an application for a license or a special permit after it has been filed with the state department shall not, unless the state department consents in writing to such withdrawal, deprive the state department of its authority to institute or continue a proceeding against the applicant for the denial of the license or a special permit upon any ground provided by law or to enter an order denying the license or special permit upon any such ground....”

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(2) The initial application fee or the annual processing fee shall be forfeited.

Authority cited: Sections 1530, and 1553, Health and Safety Code.

Reference: Sections 1520, 1523.1, 1524, 1528, and 1553, Health and Safety Code.

Adopt new Section 82030 to read:

82030 PROVISIONAL LICENSE

82030

- (a) The licensing agency shall have the authority to issue a provisional license to an applicant, pending action under Section 82031 or 82040 on a completed application for an initial license, if it determines that all of the following circumstances exist:
- (1) The facility/center is in substantial compliance with applicable law and regulation.
 - (2) An urgent need for licensure exists.
 - (3) A corporate applicant's board of directors, executive director and officer are eligible for licensure as specified in Health and Safety Code Section 1520.11(b).

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1520.11(b) reads:

“(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, an executive director, or an officer, who is not eligible for licensure pursuant to Section 1520.3 or Section 1558.1.”

HANDBOOK ENDS HERE

- (b) The capacity of a provisional license shall be limited to the number of clients for whom urgent need has been established, or the capacity established for the specific facility/center, whichever is less.
- (c) The licensing agency shall have the authority to issue a provisional license for a maximum of six months when it determines that full compliance with licensing regulations will be achieved within that time period.
- (d) The licensing agency shall have the authority to issue a provisional license for a maximum of 12 months when it determines, at the time of application, that more than six months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.
- (e) If, during the provisional license period, the licensing agency discovers any serious deficiencies, the Department shall have the authority to institute administrative action or civil proceedings, or to refer the case for criminal prosecution.

- (f) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.

Authority cited: Sections 1523, 1530, and 1553, Health and Safety Code.

Reference: Sections 1520, 1520.11, 1523, 1524, 1525.5, 1528, and 1553, Health and Safety Code.

Adopt new Section 82031 to read:

82031 ISSUANCE OF LICENSE

82031

- (a) Within 90 days of the date that a completed application, as defined in Section 82001(c)(8), has been received, the licensing agency shall give written notice to the applicant of one of the following:
- (1) The application has been approved.
 - (2) The application has been denied.
 - (A) The notice of denial shall include the information as specified in Section 82040.
- (b) The licensing agency shall notify the applicant, in writing, of the issuance of the license.
- (1) Issuance of the license itself shall constitute written notification of license approval.

Authority cited: Sections 1530 and 1553, Health and Safety Code.

Reference: Sections 1509, 1520, 1520.5, 1525, 1526, 1531.5, and 1553, Health and Safety Code; and Section 15376, Government Code.

Adopt new Section 82034 to read:

82034 SUBMISSION OF A NEW APPLICATION

82034

- (a) A licensee shall file a new application as required by Section 82018 whenever there is a change in conditions or limitations described on the current license, or other changes including but not limited to the following:
- (1) Any change in the location of the facility/center.
 - (2) Any change of licensee, including but not limited to the following when the licensee is a corporation:
 - (A) Sale or transfer of the majority of stock.
 - (B) Separating from a parent company.
 - (C) Merger with another company.
 - (3) Any change in facility/center category.
 - (4) Any increase in capacity.
 - (A) The licensing agency shall have the authority to grant capacity increases without resubmission of an application following a licensing agency review and the securing of an appropriate fire clearance.
 - (5) A permanent change in any client from ambulatory to non-ambulatory status.
- (b) A new application as required by Section 82018 shall be filed whenever an applicant fails to complete a new application within the time limit as required by Section 82027(a) if the applicant chooses to continue the application process.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1520, 1523.1, and 1531, Health and Safety Code.

Adopt new Section 82035 to read:

82035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE 82035
FACILITY LICENSE

- (a) Conditions for forfeiture of a community care facility license may be found in Section 1524 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1524 reads:

“A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

“(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when the transfer of stock does not constitute a majority change of ownership.

“(b) The licensee surrenders the license to the department.

“(c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

“(d) The licensee is convicted of an offense specified in Section 220, 243.4 or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

“(e) The licensee dies. If an adult relative notifies the department of his or her desire to continue operation of the facility and submits an application, the department shall expedite the application. The department shall promulgate regulations for expediting applications submitted pursuant to this subdivision.

“(f) The licensee abandons the facility.”

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- (2) “Licensee abandons the facility” shall mean either of the following:

- (A) The licensee informs the licensing agency that the licensee no longer accepts responsibility for the facility/center, or
 - (B) The licensing agency is unable to determine the licensee's whereabouts after the following:
 - 1. The licensing agency requests information of the licensee's whereabouts from the facility's/center's staff if any staff can be contacted; and
 - 2. The licensing agency has made at least one (1) phone call per day, to the licensee's last telephone number of record, for five (5) consecutive workdays with no response; and
 - 3. The licensing agency has sent a certified letter, requesting the licensee to contact the licensing agency, to the licensee's last mailing address of record with no response within seven (7) calendar days.
- (b) If the facility/center licensee dies, an adult relative who has control of the property shall be permitted to operate a previously licensed facility/center under an Emergency Approval to Operate (LIC 9117) providing the following conditions are met:
 - (1) The relative or an adult acting on the relative's behalf notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the community care facility/center.
 - (2) The relative files with the Department within five days of the licensee's death an Application for License (LIC 200) and evidence of the licensee's death as defined in Section 82001(e)(3).
 - (A) Notwithstanding the instructions on the Application for License (LIC 200), the Department shall permit the relative to submit only the information on the front side of that form.
 - (3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprints.
- (c) If the adult relative complies with Sections 82035(b)(1) and (2), he/she shall not be considered to be operating an unlicensed facility/center pending the Department's decision on whether to approve a provisional license.
- (d) The Department shall make a decision within 60 days after the application is submitted on whether to issue a provisional license pursuant to Section 82030.

- (1) A provisional license shall be granted only if the Department is satisfied that the conditions as specified in Sections 82030 and 82035(b) have been met and that the health and safety of the clients of the facility/center will not be jeopardized.

Authority cited: Sections 1524(e) and 1530, Health and Safety Code.

Reference: Sections 1524 and 1524(e), Health and Safety Code.

Adopt new Section 82036 to read:

82036 APPLICATION/ANNUAL PROCESSING FEES

82036

- (a) An applicant or licensee shall be charged application/annual fees as specified in Health and Safety Code Section 1523.1.

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- (1) Health and Safety Code Section 1523.1(a)(1) states in pertinent part:

“(a) (1) A fee adjusted by facility and capacity shall be charged by the department for the issuance of an original license or special permit or for processing any application therefor. After initial licensure, the fee shall be charged by the department annually on each anniversary of the effective date of the license or special permit. The fee is for the purpose of financing a portion of the application and annual processing costs and the activities specified in subdivision (b). The fee shall be assessed as follows:”

Only the fees for the Adult Day Programs are listed here.

“Fee Schedule

<u>Facility Type</u>	<u>Capacity</u>	<u>Original Application</u>	<u>Annual</u>
<u>Adult Day Care</u>	<u>1-15</u>	<u>\$0</u>	<u>\$50</u>
<u>Facilities and Adult</u>	<u>16-30</u>	<u>\$100</u>	<u>\$100</u>
<u>Day Support Centers</u>	<u>31-60</u>	<u>\$200</u>	<u>\$200</u>
	<u>61-75</u>	<u>\$250</u>	<u>\$250</u>
	<u>76-90</u>	<u>\$300</u>	<u>\$300</u>
	<u>91-120</u>	<u>\$400</u>	<u>\$400</u>
	<u>121+</u>	<u>\$500</u>	<u>\$500”</u>

HANDBOOK ENDS HERE

- (b) No additional fee shall be charged when the licensee requests an increase in capacity between annual anniversary dates.
- (c) When a licensee moves a facility/center from one location to another, the application/processing fee shall be one half of the annual fee amount.

- (1) To receive the reduced fee the following shall apply:

- (A) The licensee shall have notified the licensing agency before actually relocating the facility/center.
- (B) The categorical type of facility/center shall remain the same when relocating the facility/center.
- (C) The fee shall be based on the requested capacity at the new location.
- (d) The application/annual processing fee shall be nonrefundable except as provided in Government Code Section 15378.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1523.1 and 1524, Health and Safety Code; and Section 15378, Government Code.

Amend Article 4. title and adopt new Section 82040 to read:

Article 4. Administrative ~~Procedures~~ Actions (~~Reserved~~)

82040 DENIAL OF INITIAL LICENSE

82040

- (a) Except as specified in Section 82030, which provides for issuance of a provisional license based upon substantial compliance and urgent need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulation.
- (1) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section 82058 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
- (2) An application for licensure shall be denied as specified in Health and Safety Code Sections 1520.11(b), (d) and 1550.

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1520.11(b) reads:

“(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, an executive director, or an officer, who is not eligible for licensure pursuant to Section 1520.3 or Section 1558.1.”

(B) Health and Safety Code Section 1520.11(d) states:

“(d) Prior to instituting administrative action pursuant to either subdivision (b) or (c), the department shall notify the applicant or licensee of the person’s ineligibility to be a member of the board of directors, an executive director, or an officer of the applicant or licensee. The licensee shall remove the person from that position within 15 days or, if the person has client contact, he or she shall be removed immediately upon notification.”

(C) Health and Safety Code Section 1550 reads:

“The department may deny an application for, or suspend or revoke, any licensee, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter.

“(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

“(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

“(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

“(d) The conviction of a licensee, or other person, mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

“(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

“(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.”

HANDBOOK ENDS HERE

(b) If the application for an initial license is denied, the licensing agency shall mail the applicant a written notice of denial.

(1) The notification shall inform the applicant of and set forth the reasons for the denial, and shall advise the applicant of the right to appeal.

(c) If the application for an initial license is denied, the application processing fee shall be forfeited.

(d) An applicant shall have the right to appeal the denial of the application pursuant to Health and Safety Code Sections 1526 and 1551.

HANDBOOK BEGINS HERE

(1) Health and Safety Code Section 1526 provides in part:

“Immediately upon the denial of any application for a license or for a special permit, the state department shall notify the applicant in writing. Within 15 days after the state department mails the notice, the applicant may present his written petition for a hearing to the state department. Upon receipt by the state department of the petition in proper form, such petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code....”

(2) Health and Safety Code Section 1551 provides in part:

“(a) Proceedings for the suspension, revocation, or denial of a license, registration, special permit, or any administrator certificate under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by those provisions. In the event of conflict between this chapter and the Government Code, the Government Code shall prevail.”

HANDBOOK ENDS HERE

(e) Notwithstanding any appeal action, the facility/center is unlicensed and shall not operate pending adoption by the director of a decision on the denial action.

Authority cited: Sections 1523 and 1530, Health and Safety Code.

Reference: Sections 1520, 1520.11, 1523, 1525, 1526, 1528, 1547, 1548, and 1551, Health and Safety Code.

Adopt new Section 82042 to read:

82042 REVOCATION OR SUSPENSION OF LICENSE

82042

- (a) The Department shall have the authority to suspend or revoke any license on any of the grounds specified in Health and Safety Code Sections 1550 and 1550.5.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1550 specifies in part:

“The department may deny an application for, or suspend or revoke, any license, or any administrator certificate issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

“(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

“(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

“(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

“(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

“(e) ...

“(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.”

- (2) Health and Safety Code Section 1550.5 provides in pertinent part:

“The director may temporarily suspend any license prior to any hearing when, in the opinion of the director, the action is urgent to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall serve the licensee with the temporary suspension order, a copy of available discovery and other relevant evidence in the

possession of the department, including, but not limited to, affidavits, declarations, and any other evidence upon which the director relied in issuing the temporary suspension order, the names of the department's witnesses, and the effective date of the temporary suspension and at the same time shall serve the licensee with an accusation.

"...

"(b) Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for a full evidentiary hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the time the hearing is completed and the director has made a final determination on the merits, unless it is earlier vacated by interim decision of the administrative law judge or a superior court judge. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed."

HANDBOOK ENDS HERE

- (b) Proceedings to hear a revocation action or a revocation and temporary suspension action shall be conducted pursuant to the provisions of Health and Safety Code Section 1551.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1551 provides in part:

"(a) Proceedings for the suspension, revocation, or denial of a license, registration, special permit, or any administrator certificate under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by those provisions. In the event of conflict between this chapter and the Government Code, the Government Code shall prevail."

- (2) Chapter 5 commencing with Section 11500 of Part 1, Division 3, Title 2 of the Government Code provides in part:

(A) "When the Director intends to seek revocation of a license, he/she shall notify the licensee of the proposed action; shall concurrently serve the licensee with an accusation; and advise the licensee of the right to a hearing.

(B) "The licensee has the right to a hearing prior to the revocation or suspension of a license, except as provided below:

- (1) “The Director may temporarily suspend any license prior to hearing when in his/her opinion such action is necessary to protect the clients in the facility from any physical or mental abuse or any other substantial threat to health or safety.
 - (2) “When the Director intends to temporarily suspend a license prior to a hearing, he/she shall notify the licensee of the temporary suspension and the effective date thereof, and concurrently serve the licensee with an accusation.
 - (C) “The licensee shall apply for a hearing under (B) above by sending a written notice of defense to the Director within 15 calendar days of the mailing date of the revocation or suspension notice.
 - (D) “The Director shall, within 15 days of receipt of the notice of defense, request the Office of Administrative Hearings to set the matter for hearing.”
- (c) For a revocation and temporary suspension action, the Director shall request the Office of Administrative Hearings to hold the hearing as soon as possible but not later than 30 calendar days after receipt of the notice of defense.

HANDBOOK ENDS HERE

Authority cited: Sections 1520.11, 1530, and 1550, Health and Safety Code.

Reference: Sections 1550, 1550.5, and 1551, Health and Safety Code.

Adopt new Section 82043 to read:

82043 LICENSEE/APPLICANT COMPLAINTS

82043

- (a) Each licensee/applicant shall have the right, without prejudice, to bring to the attention of the Department or the licensing agency, or both, any alleged misapplication or capricious enforcement of regulations by any licensing representative, or any differences in opinion between the licensee and any licensing representative concerning the proper application of these regulations.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Adopt new Section 82044 to read:

82044 INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING 82044
AGENCY

- (a) The Department or licensing agency shall have the inspection authority specified in Health and Safety Code Sections 1526.5, 1533, 1534, and 1538.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1526.5 provides in part:

“(a) Within 90 days after the date of issuance of a license or special permit pursuant to Section 1525, the department shall conduct an inspection of the facility for which the license or special permit was issued....”

- (2) Health and Safety Code Section 1533 provides in part:

“Except as otherwise provided in this section, any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.”

- (3) Health and Safety Code Section 1534 provides in part:

“(a) (1) (A) Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to ensure the quality of care being provided.”

- (4) Health and Safety Code Section 1538 provides in part:

“(a) Any person may request an inspection of any community care facility ...in accordance with this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter the facility pursuant to Section 9701 of the Welfare and Institutions Code. A complaint may be made either orally or in writing.

“(b) The substance of the complaint shall be provided to the licensee ...no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee ...nor any copy of the complaint or any record published, released, or otherwise made available to the licensee ... shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agent of the state department conducting the investigation or inspection pursuant to this chapter.

“(c) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility ... the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection ...within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

“If the department determines that the complaint is intended to harass, is without a reasonable basis, or, after a site inspection, is unfounded, then the complaint and any documents related to it shall be marked confidential and shall not be disclosed to the public. If the complaint investigation included a site visit, the licensee ...shall be notified in writing within 30 days of the dismissal that the complaint has been dismissed.

“(d) Upon receipt of a complaint alleging denial of a statutory right of access to a community care facility ...the state department shall review the complaint. The complainant shall be notified promptly of the state department's proposed course of action.”

HANDBOOK ENDS HERE

- (b) The Department or licensing agency shall have the authority to interview clients or staff, and to inspect and audit client or facility/center records without prior consent.
- (1) The licensee shall make provisions for private interviews with any clients or any staff member, and for the examination of all records relating to the operation of the facility/center.
- (c) The Department or licensing agency shall have the authority to observe the physical condition of the client, including conditions which could indicate abuse, neglect, or inappropriate placement, and to have a licensed medical professional physically examine the client.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1526.5, 1531, 1533, 1534, and 1538, Health and Safety Code.

Adopt new Section 82045 to read:

82045 EVALUATION VISITS

82045

- (a) Community care facilities shall be evaluated as specified in Health and Safety Code Sections 1534 and 1548.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1534 provides in part:

“(a) (1) (A) Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to insure the quality of care being provided.

“ ...

“(2) The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

“(3) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the state department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.”

- (2) Health and Safety Code Section 1548 provides in part:

“(a) In addition to suspension or revocation of a license issued under this chapter, the department may levy a civil penalty in addition to the penalties of suspension or revocation.

“(b) The amount of the civil penalty shall not be less than twenty-five dollars (\$25) or more than fifty dollars (\$50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars (\$150) per day.”

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- (b) The licensing agency shall have the authority to make any number of other visits to a facility/center in order to determine compliance with applicable law and regulation.

Authority cited: Sections 1530 and 1548, Health and Safety Code.

Reference: Sections 1528, 1533, 1534, 1538, and 1548, Health and Safety Code.

Adopt Section 82046 to read:

82046 EXCLUSIONS

82046

- (a) An individual can be prohibited from serving as a member of a board of directors, executive director, or officer; from being employed or allowing an individual in a licensed facility as specified in Health and Safety Code Sections 1558 and 1558.1.

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- (1) Health and Safety Code Section 1558 reads:

“(a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

“(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

“(2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

“(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1522.

“(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

“(5) Engaged in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

“(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the

excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

“(c) (1) The department may require the immediate removal of a member of the board of directors, an executive director or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

“(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility, the department shall serve an order or immediate exclusion upon the excluded person which shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

“(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

“(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

“(B) Within 60 days of receipt of a notice of defense pursuant to Section 11506 of the Government Code by the excluded person to conduct a hearing on the accusation.

“(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

“(d) An excluded person who files a written appeal with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

“(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the

Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

“(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section, or enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or the excluded person’s employment or presence in the facility or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

“(g) A licensee’s failure to comply with the department’s exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1550.

“(h) (1) (A) In cases where the excluded person appealed the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person’s life, unless otherwise ordered by the department.

“(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

“(2) (A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person’s life, unless otherwise ordered by the department.

“(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.”

(2) Health and Safety Code Section 1558.1 reads:

“(a) (1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to the chapter.

“(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency which was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

“(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

“(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

“(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

“(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section

1534, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

“(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

“(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

“(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1558 or any other law.

“(e) The department may determine not to exclude the person from, or remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances and conditions that either have been corrected or are no longer in existence.”

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Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1558 and 1558.1, Health and Safety Code.

Amend Article 5. title, and adopt new Section 82051 to read:

Article 5. ~~Civil Penalties~~ Enforcement Provisions

82051 SERIOUS DEFICIENCIES

82051

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- (a) The following are examples of regulations that, if not complied with, nearly always result in a serious deficiency.
- (1) Section 82010 relating to limitations on the capacity or ambulatory status of facility/center clients.
 - (2) Section 82019 relating to criminal record clearance.
 - (3) Section 82020 relating to fire clearance.
 - (4) Section 82021 relating to water supply.
 - (5) Section 82072 relating to clients' rights.
 - (6) Section 82073 relating to telephone service.
 - (7) Sections 82075(h) through (j) relating to storing and dispensing medications.
 - (8) Section 82076 relating to food storage, preparation, and service.
 - (9) Section 82087 relating to safety of client accommodations.
 - (10) Sections 82088(e)(1), (2), and (3) relating to hot water temperature and toilet facilities.
 - (11) Section 82088(f) relating to storage and disposal of solid wastes.
 - (12) Section 82094.5 relating to a licensee forwarding to the Department a client's request for an IDT review of a health condition relocation order.
 - (13) Any other regulation, the violation of which is deemed by the licensing agency to constitute a serious deficiency as defined in Section 82001(s)(1).

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Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1507, 1531, and 1534, Health and Safety Code.

Adopt new Section 82052 to read:

82052 DEFICIENCIES IN COMPLIANCE

82052

- (a) When a licensing evaluation is conducted and the evaluator determines that a deficiency exists the evaluator shall issue a notice of deficiency, unless the deficiency is not serious and is corrected during the visit.
- (b) Prior to completion of an evaluation or other licensing visit, the licensee, administrator, operator, or other person in charge of the facility/center shall meet with the evaluator to discuss any deficiencies noted, to jointly develop a plan for correcting each deficiency, and to acknowledge receipt of the notice of deficiency.
- (c) The evaluator shall provide notice of deficiency to the licensee by one of the following:

 - (1) Personal delivery to the licensee, at the completion of the visit.
 - (2) If the licensee is not at the facility/center site, leaving the notice with the person in charge of the facility/center at the completion of the visit.

 - (A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.
 - (3) If the licensee or the person in charge of the facility/center refuses to accept the notice, a notation of the refusal shall be written on the notice and a copy left at the facility/center.

 - (A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.
- (d) The notice of deficiency shall be in writing and shall include the following:

 - (1) Citation of the statute or regulation which has been violated.
 - (2) A description of the nature of the deficiency stating the manner in which the licensee failed to comply with a specified statute or regulation, and the particular place or area of the facility/center in which it occurred.
 - (3) The plan developed, as specified in Section 82052(b), for correcting each deficiency.

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(A) Section 1522(c) of the Health and Safety Code is paraphrased below:

Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the California Department of Social Services for processing.

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(4) A date by which each deficiency shall be corrected.

(A) In determining the date for correcting a deficiency, the evaluator shall consider the following factors:

1. The potential hazard presented by the deficiency.
2. The number of clients affected.
3. The availability of equipment or personnel necessary to correct the deficiency.
4. The estimated time necessary for delivery, and for any installation, of necessary equipment.

(B) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days.

(C) If the date for correcting the deficiency is more than 30 calendar days following service of the notice of deficiency, the notice shall specify the corrective actions which must be taken within 30 calendar days to begin correction.

(D) The evaluator shall require correction of the deficiency within 24 hours and shall specify on the notice the date by which the correction must be made whenever penalties are assessed pursuant to Sections 80054(c), (d), and (e).

(5) The amount of penalty being assessed and the date the penalty begins.

(6) The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the facility/center is located.

Authority cited: Sections 1530 and 1548, Health and Safety Code.

Reference: Sections 1522, 1534, and 1548, Health and Safety Code.

Adopt new Section 82053 to read:

82053 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE

82053

- (a) A follow-up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.
 - (1) At a minimum, a follow-up visit shall be conducted within 10 working days following the dates of corrections specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required.
 - (2) No penalty shall be assessed unless a follow-up visit is conducted as specified in Sections 82053(a) and (a)(1).
- (b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty.
- (c) A notice of penalty shall be in writing and shall include:
 - (1) The amount of penalty assessed, and the date the payment is due.
 - (2) The name and address of the agency responsible for collection of the penalty.
- (d) When an immediate penalty has been assessed pursuant to Sections 82054(c), (d), (e), and (f) and correction is made when the evaluator is present, a follow-up visit is not required.

Authority cited: Sections 1530 and 1548, Health and Safety Code.

Reference: Sections 1533, 1534, and 1548, Health and Safety Code.

Adopt new Section 82054 to read:

82054 PENALTIES

82054

- (a) A penalty of \$50 per violation per day, up to a maximum of \$150 per day shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency.
- (b) Notwithstanding Section 82054(a), an immediate penalty of \$150 per day shall be assessed for any of the following:
 - (1) Sickness, injury, or death of a client as a result of the deficiency.
- (c) When a facility/center is cited for a deficiency and repeats the same violation within a 12-month period, an immediate penalty assessment of \$150 and \$50 per day thereafter shall be assessed until the deficiency is corrected.
- (d) A deficiency subject to the immediate penalty assessment in Section 82054(e) which is repeated within a 12-month period of the initial deficiency citation shall be cited and assessed an immediate penalty of \$150 and \$150 per day thereafter until the deficiency is corrected.
- (e) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated.
 - (1) Immediate penalty assessment as specified in Sections 82054(b), (c), and (d), shall begin on the day the deficiency is cited.
- (f) If a licensee or his/her representative reports to the licensing agency that a deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction was made.
 - (1) If the deficiency has not been corrected, civil penalties shall continue to accrue from the date of the original citation.
 - (2) If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.
- (g) If necessary, a site visit shall be made immediately or within five working days to confirm deficiency has been corrected.

- (h) If an immediate civil penalty is assessed, and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.
- (i) All penalties shall be due and payable upon receipt of notice for payment from the licensing agency, and shall be paid only by check or money order made payable to the agency indicated in the notice.
- (j) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in Section 82054(i).

Authority cited: Sections 1530 and 1548, Health and Safety Code.

Reference: Sections 1534 and 1548, Health and Safety Code.

Adopt new Section 82055 to read:

82055 ADMINISTRATIVE REVIEW

82055

- (a) A licensee or his/her representative shall have the right to request a review of a notice of deficiency and/or notice of penalty within 10 working days of receipt of such notice(s).

 - (1) If the deficiency has not been corrected, civil penalties shall continue to accrue during the review process.
- (b) The review shall be conducted by a higher level staff person than the evaluator who issued the notice(s).
- (c) If the reviewer determines that a notice of deficiency or notice of penalty was not issued or assessed in accordance with applicable statutes and regulations of the Department, or that other circumstances existed, he/she shall have the authority to amend or dismiss the notice.
- (d) The reviewer shall have the authority to extend the date specified for correction of a deficiency if warranted by the facts or circumstances presented to support a request for extension.

Authority cited: Section 1530, Health and Safety Code.

Reference: Section 1534, Health and Safety Code.

Adopt new Section 82056 to read:

82056 EXEMPTION FROM CIVIL PENALTIES

82056

- (a) Civil penalties shall not be assessed against any governmental entity, including a state or city holding a community care facility license.

Authority cited: Section 1530, Health and Safety Code.

Reference: Section 1534, Health and Safety Code.

Adopt new Section 82058 to read:

82058 UNLICENSED FACILITY/CENTER PENALTIES

82058

- (a) A penalty of \$200 per day shall be assessed for the operation of an unlicensed facility/center under either of the following conditions:

 - (1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of Law (LIC 195) pursuant to Section 82006, and continues to operate.

 - (A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 82018.
 - (B) The completed application shall be deemed to be submitted when received by the licensing agency.
 - (2) Unlicensed operation continues after denial of the initial application.

 - (A) Notwithstanding any appeal action, facility/center operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
- (b) The \$200 per day penalty shall be assessed for the continued operation of an unlicensed facility/center as follows:

 - (1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law (LIC 195), and has not submitted a completed application as required.

 - (A) The \$200 per day penalty shall continue until the operator ceases operation, or submits a completed application pursuant to Sections 82058(a)(1)(A) and (B).
 - (2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

 - (A) The \$200 per day penalty shall continue until the operator ceases operation.
- (c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation, as defined in Section 1503.5 of the Health and Safety Code, has ceased, the penalty shall cease as of the day the licensing agency receives the notification.

- (1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility/center operation has ceased.
- (2) Notwithstanding Section 82058(b), if the unlicensed facility/center operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.
- (d) All penalties shall be due and payable upon receipt of the Notice for Payment from the licensing agency, and shall be paid by check or money order made payable to the agency indicated in the notice.
- (e) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in Section 82058(d).

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- (f) Payment of civil penalties or application for licensure in response to a citation under this section does not permit the operation of a community care facility without a license.

- (1) Section 1508 of the Health and Safety Code provides in part:

“No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a community care facility in this state, without a current valid license therefor as provided in this chapter.”

HANDBOOK ENDS HERE

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1503.5, 1508, 1520, 1533, 1538, 1540, 1540.1, 1541, 1547, and 1549, Health and Safety Code.

Adopt new Section 82059 to read:

82059 UNLICENSED FACILITY/CENTER ADMINISTRATIVE APPEAL 82059

- (a) An unlicensed facility/center operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.

 - (1) If the unlicensed facility/center operation has not ceased, the \$200 per day penalty shall continue to accrue during the appeal process.
- (b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.
- (c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1503.5, 1508, 1547, and 1548, Health and Safety Code.

Adopt new Section 82061 to read:

Article 6. Continuing Requirements

82061 REPORTING REQUIREMENTS

82061

- (a) Each licensee or applicant shall furnish to the licensing agency reports as required by the Department including, but not limited to, those specified in this section.
- (b) Upon the occurrence, during the hours the facility/center is providing services to the client, of any of the events specified in Section 82061(b)(1), a report shall be made to the licensing agency within the agency's next working day during its normal business hours. In addition, a written report containing the information specified in Section 82061(b)(2) shall be submitted to the licensing agency within seven days following the occurrence of such event.
 - (1) Events reported shall include the following:
 - (A) Death of any client from any cause.
 - (B) Any injury to any client which requires medical treatment.
 - (C) Any unusual incident which threatens the physical or emotional health or safety of any client.
 - (D) Any suspected physical or psychological abuse of any client.
 - (E) Epidemic outbreaks.
 - (F) Poisonings.
 - (G) Catastrophes.
 - (H) Fires or explosions which occur in or on the premises.
 - (2) Information provided shall include the following:
 - (A) Client's name, age, sex, and date of admission.
 - (B) Date and nature of event.
 - (C) Attending physician's name, findings, and treatment, if any.

- (D) Disposition of the case.
- (c) The items below shall be reported to the licensing agency within 10 working days following the occurrence.
- (1) The organizational changes specified in Section 82034(a)(2).
- (2) Any change in the licensee's or applicant's mailing address.
- (3) Any change of the chief executive officer of a corporation or association.
- (A) Such notification shall include the new chief executive officer's name and address.
- (B) Fingerprints shall be submitted as specified in Section 82019(c)(1).
- (4) Any changes in the plan of operation which affect the services to clients.
- (d) The items specified in Sections 82061(b)(1)(A) through (H) shall also be reported to the client's authorized representative, if any.
- (e) The items specified in Sections 82061(b)(1)(E) through (G) shall also be reported to the local health officer when appropriate pursuant to Title 17, California Code of Regulations, Sections 2500 and 2502.

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- (1) Title 17, California Code of Regulations, Section 2500 requires:

It shall be the duty of every physician, practitioner, dentist, coroner, every superintendent or manager of a dispensary, hospital, clinic, or any other person knowing of or in attendance on a case or suspected case of any of the following diseases or conditions, to notify the local health authority immediately. A standard type report form has been adopted and is available for this purpose.

Acquired Immune Deficiency
Syndrome (AIDS)
Amebiasis
Anisakiasis
Anthrax
Babesiosis
Botulism (Infant, Foodborne, Wound)
Brucellosis

Meningitis, Specify Etiology: Viral
Bacterial, Fungal, Parasitic
Meningococcal Infections
Mumps
Non-Gonococcal Urethritis
(Excluding Laboratory Confirmed
Chlamydial Infections)
Paralytic Shellfish Poisoning

<u>Campylobacteriosis</u>	<u>Pelvic Inflammatory Disease (PID)</u>
<u>Chancroid</u>	<u>Pertussis (Whooping Cough)</u>
<u>Chlamydial Infections</u>	<u>Plague, Human or Animal</u>
<u>Cholera</u>	<u>Poliomyelitis, Paralytic</u>
<u>Ciguatera Fish Poisoning</u>	<u>Psittacosis</u>
<u>Coccidioidomycosis</u>	<u>Q Fever</u>
<u>Colorado Tick Fever</u>	<u>Rabies, Human or Animal</u>
<u>Conjunctivitis, Acute Infectious of the</u>	<u>Relapsing Fever</u>
<u> Newborn, Specify Etiology</u>	<u>Reye Syndrome</u>
<u>Cryptosporidiosis</u>	<u>Rheumatic Fever, Acute</u>
<u>Cysticercosis</u>	<u>Rocky Mountain Spotted Fever</u>
<u>Dengue</u>	<u>Rubella (German Measles)</u>
<u>Diarrhea of the Newborn, Outbreaks</u>	<u>Rubella Syndrome, Congenital</u>
<u>Diphtheria</u>	<u>Salmonellosis (Other than Typhoid</u>
<u>Domoic Acid Poisoning (Amnesic</u>	<u> Fever)</u>
<u> Shellfish Poisoning)</u>	<u>Scombroid Fish Poisoning</u>
<u>Echinococcosis (Hydatid Disease)</u>	<u>Shigellosis</u>
<u>Ehrlichiosis</u>	<u>Streptococcal Infections (Outbreaks of</u>
<u>Encephalitis, specify Etiology: Viral,</u>	<u> Any Type and Individual Cases in</u>
<u> Bacterial, Fungal, Parasitic</u>	<u> Food Handlers and Dairy Workers</u>
<u>Escherichia coli O157:H7 Infection</u>	<u> Only)</u>
<u>Foodborne Disease</u>	<u>Swimmer's Itch (Schistosomal</u>
<u>Giardiasis</u>	<u> Dermatitis)</u>
<u>Gonococcal Infections</u>	<u>Syphilis</u>
<u>Haemophilus Influenza,</u>	<u>Tetanus</u>
<u> Invasive Disease</u>	<u>Toxic Shock Syndrome</u>
<u>Hantavirus Infections</u>	<u>Toxoplasmosis</u>
<u>Hemolytic Uremic Syndrome</u>	<u>Trichinosis</u>
<u>Hepatitis, Viral</u>	<u>Tuberculosis</u>
<u>Hepatitis A</u>	<u>Tularemia</u>
<u>Hepatitis B (specify acute case or</u>	<u>Typhoid Fever, Cases and Carriers</u>
<u> chronic)</u>	<u>Typhus Fever</u>
<u>Hepatitis C (specify acute case or</u>	<u>Vibrio Infections</u>
<u> chronic)</u>	<u>Viral Hemorrhagic Fevers, (e.g.,</u>
<u>Hepatitis D (Delta)</u>	<u> Crimean-Congo, Ebola, Lassa</u>
<u>Hepatitis, other, acute</u>	<u> and Marburg Viruses)</u>
<u>Kawasaki Syndrome (Mucocutaneous</u>	<u>Water-associated Disease</u>
<u> Lymph Node Syndrome)</u>	<u>Yellow Fever</u>
<u>Legionellosis</u>	<u>Yersiniosis</u>
<u>Leprosy (Hansen Disease)</u>	<u>OCCURRENCE of ANY UNUSUAL</u>
<u>Leptospirosis</u>	<u>DISEASE</u>
<u>Listeriosis</u>	<u>OUTBREAKS of ANY DISEASE</u>
<u>Lyme Disease</u>	<u> (Including diseases not listed</u>
<u>Lymphocytic Choriomeningitis</u>	<u> in Section 2500).</u>

Malaria
Measles (Rubeola)

Specify if institutional and/or
open community.

For outbreak reporting and reporting of occurrence of unusual and rare diseases see
Section 2502.

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- (f) The item specified in Section 82061(b)(1)(H) shall also be reported immediately to the
local fire authority. In areas not having organized fire services a report shall be made to
the State Fire Marshal within 24 hours.
- (g) Licensees shall send copies of all substantiated complaints to board members of the
licensed facility, parents, legal guardians, conservators, client rights advocates or
placement agencies, as applicable.

Authority cited: Sections 1530 and 1538.5, Health and Safety Code.

Reference: Sections 1501, 1507, 1520, 1531, and 1538.5, Health and Safety Code.

Adopt new Section 82062 to read:

82062 FINANCES

82062

(a) The licensee shall meet the following financial requirements:

- (1) Development and maintenance of a financial plan which ensures resources necessary to meet operating costs for care and supervision of clients.
- (2) Maintenance of financial records.
- (3) Submission of financial reports as required upon the written request of the Department or licensing agency.
 - (A) Such request shall explain the necessity for disclosure.
 - (B) The licensing agency shall have the authority to reject any financial report, and to request and examine additional information including interim financial statements. The reason(s) for rejection of the report shall be in writing.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1520, and 1531, Health and Safety Code.

Adopt new Section 82063 to read:

82063 ACCOUNTABILITY

82063

- (a) The licensee, whether an individual or other entity, is accountable for the general supervision of the licensed facility/center, and for the establishment of policies concerning its operation.
- (1) If the licensee is a corporation or an association, the governing body shall be active and functioning in order to ensure such accountability.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Renumber Sections 82564(f)(8), (10) and (11) et seq. to Sections 82064(b)(14) through (16) et seq.; Sections 82564(b)(1) et seq., (b)(2), (c), (c)(1), (c)(2), (d) et seq. and (e) to Sections 82064(f)(1) et seq., (f)(2), (f)(3), (f)(4), (f)(5), (f)(6) et seq. and (g), respectively, and amend to read:

82064 ADMINISTRATOR - QUALIFICATIONS AND DUTIES

82064

~~(a) In addition to Section 80064, the following shall apply.~~

~~(b)~~ All adult day care facilities and adult day support centers shall have an administrator.

~~(g)~~ The administrator shall:

(1) Be at least 18 years of age.

(2) Know the requirements for providing the type of care and supervision needed by clients, including communication with such clients.

~~(13)~~ Provide for continuous supervision of clients.

~~(24)~~ Supervise the operation of the facility/center.

~~(45)~~ Communicate with the Department as required by applicable laws and regulations.

~~(36)~~ Comply with applicable laws and regulations.

(7) Maintain or supervise the maintenance of financial and other records.

(8) Direct the work of others, when applicable.

(9) Establish the facility's/center's policy, program and budget.

(10) Recruit, employ, train, and evaluate qualified staff, and terminate employment of staff, if applicable to the facility/center.

82564(f)

~~(511)~~ Acknowledge the receipt of ~~any~~ the Department's correspondence, deficiency notices, or field reports when the Department has requested a response.

~~(612)~~ ~~Correct any deficiencies including any that constitute immediate threats to the health and safety of clients.~~ Ensure the timely correction of all cited deficiencies.

~~(713)~~ ~~Provide for program adjustments~~ Adjust the program to accommodate the needs of all clients.

- ~~(8) Ensure the safety of clients who wander, have vision or hearing impairments, or have other special needs for care and supervision.~~

~~82564(f)~~

~~(814)~~ Coordinate all activities and services.

~~(105)~~ Provide initial orientation for all staff and ongoing educational and training programs for the direct care staff.

~~(146)~~ Arrange for special provision for the care and supervision, including health, safety, and guidance, of ~~participants~~ clients who have special needs.

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- (A) Such provisions may include additional staff to supervise ~~participants~~ clients who wander, to maintain mechanical medical aids, and to monitor toileting schedules.
- (B) Other special needs of ~~participants~~ clients may include safety and emergency information in large lettering and/or in braille and lights to alert the deaf to emergencies.

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- (c) Each licensee shall make provision for continuing operation and carrying out of the administrator's responsibilities during any absence of the administrator by a substitute designated by the licensee who meets the qualifications of Section 82065.
- (d) The licensee, if an individual, or any member of the governing board of the licensed corporation or association, shall be permitted to be the administrator provided that he/she meets the qualifications specified in this section.
- (e) In addition to the requirements in Sections 82064(a) through (d), the administrator of an adult day care facility shall comply with the following:
- (1) A licensee who is responsible for two or more adult day care facilities shall be permitted to serve as an administrator of one or more of the facilities, provided he/she meets the requirements of Sections 802064(b) through (d) and (e)(4) and (5) below.
- (e2) The administrator shall be on the premises the number of hours necessary to manage and administer the facility in compliance with applicable law and regulation.

- (d) ~~When the administrator is absent from the facility, there shall be coverage by a substitute designated by the licensee, who meets the qualifications of Section 80065, who shall be capable of and responsible and accountable for management and administration of the facility in compliance with applicable laws and regulations.~~
- (13) When the administrator is absent from the facility for more than 30 consecutive days, the licensee shall designate a substitute who meets the qualifications of an administrator as specified in Sections 802064(b) through (d), (e)(4) and (e)(5) below.
- (e) ~~The administrator shall meet the requirements specified below.~~
- (14) The administrator of a facility with a licensed capacity of six or fewer clients shall meet the qualifications of Section 802064(ab).
- (25) The administrator of a facility with a licensed capacity of seven or more clients shall have a high school education or equivalent, and shall have had at least two years experience or training in one of the following:
- (A) Care and supervision of clients in a licensed day care facility.
 - (B) Care and supervision of one or more of the categories of persons to be served by the facility.
- (f) In addition to the requirements in Sections 82064(b) through (d), the administrator of an adult day support center shall comply with the following:
- ~~82564(b)~~
- (1) If an administrator is responsible for two or more adult day support centers, there shall be at each site an employee who is responsible for the day-to-day operation of the center and who meets the following qualifications:
 - (A) A baccalaureate degree in psychology, social work or a related human services field; or
 - (B) A minimum of one year of experience in a supervisory or management position in the human services delivery system.
 - (2) An administrator shall not be responsible for more than five centers.
 - (e3) When the administrator or the employee specified in Section 82064(bf)(1) above is absent from the center, there shall be coverage by a substitute designated by the licensee, who meets the qualifications of Section 802065, who is on site, and who

~~shall be capable of, and responsible and accountable for the management and administration of the center in compliance with applicable laws and regulations.~~

- (14) When the administrator is absent from the center for more than 30 consecutive days, the licensee shall designate a substitute who meets the qualifications of an administrator as specified in Sections 802064(b) through (d) and (df)(6) below.
- (25) When the employee specified in Section 82064(bf)(1) above is absent from the center for more than 30 consecutive days, the licensee shall designate a substitute who meets the qualifications of an administrator as specified in Sections 802064(b) through (d) and (df)(6) below.
- (d6) The administrator shall meet the requirements specified below:
 - (1A) A baccalaureate degree in psychology, social work or a related human services field and a minimum of one year experience in the management of a human services delivery system, or
 - (2B) Three years of experience in a human services delivery system including at least one year in a management or supervisory position and two years of experience or training in one of the following:
 - (A1). Care and supervision of ~~participants~~ clients in a licensed adult day care facility, adult day support center, or an adult day health care facility.
 - (B2). Care and supervision of one or more of the categories of persons to be served by the center.
- (eg) Administrators of adult day programs employed prior to ~~the effective date of this section July 1989~~, shall remain qualified provided that they have no break in employment as an adult day ~~care facility~~ program administrator exceeding three consecutive years.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, ~~and~~ 1531, and 1562, Health and Safety Code.

Renummer Sections 82565(c) and (b) to Sections 82065(n) and (o) respectively, and amend to read:

82065 PERSONNEL REQUIREMENTS

82065

- (a) ~~In addition to Section 80065, the following shall apply.~~ Facility/center personnel shall be competent to provide the services necessary to meet individual client needs and shall, at all times, be employed in numbers necessary to meet such needs.
- (b) The licensing agency shall have the authority to require any licensee to provide additional staff whenever the licensing agency determines and documents that additional staff are required for the provision of services necessary to meet client needs. The licensee shall be informed in writing of the reasons for the licensing agency's determination. The following factors shall be taken into consideration in determining the need for additional staff.
 - (1) Needs of the particular client.
 - (2) Extent of the services provided by the facility/center.
 - (3) Physical arrangements of the particular facility/center.
 - (4) Existence of a state of emergency or disaster.
- (c) The licensee shall be permitted to utilize volunteers provided that such volunteers are supervised, and are not included in the facility/center staff plan.
- (d) The following facility/center personnel staff shall be at least 18 years of age:
 - (1) Persons who supervise employees and/or volunteers.
 - (2) Persons, including volunteers, who provide any element of care and supervision to clients.
- (e) The licensee shall provide for direct supervision of clients during participation in or presence at potentially dangerous activities or areas in the facility/center.
 - (1) An adult other than a client shall be present at all times while clients are using a pool or other body of water from which rescue requires the rescuer's ability to swim.

- (2) Adults who supervise while clients are using a pool or other body of water from which rescue requires the rescuer's ability to swim, shall have a valid water safety certificate.
- (f) All personnel shall be given on-the-job training or shall have related experience which provides knowledge of and skill in the following areas, as appropriate to the job assigned and as evidenced by safe and effective job performance.
 - (1) Principles of nutrition, food preparation and storage and menu planning.
 - (2) Housekeeping and sanitation principles.
 - (3) Provision of client care and supervision, including communication.
 - (4) Assistance with prescribed medications which are self-administered.
 - (5) Recognition of early signs of illness and the need for professional assistance.
 - (6) Availability of community services and resources.
- (g) All personnel, including the licensee, administrator, and volunteers, shall be in good health, and shall be physically, mentally, and occupationally capable of performing assigned tasks.
 - (1) Except as specified in Section 82065(g)(3), good physical health shall be verified by a health screening, including a test for tuberculosis, performed by or under the supervision of a physician not more than one year prior to or seven days after employment or licensure.
 - (2) A health screening report signed by the person performing such screening shall be made on each person specified above, and shall indicate the following:
 - (A) The person's physical qualifications to perform the duties to be assigned.
 - (B) The presence of any health condition that would create a hazard to the person, clients or other staff members.
 - (3) The good physical health of each volunteer who works in the facility/center shall be verified by:
 - (A) A statement signed by each volunteer affirming that he/she is in good health.
 - (B) A test for tuberculosis performed not more than one year prior to or seven days after initial presence in the facility/center.

- (h) Personnel with evidence of physical illness that poses a threat to the health and safety of clients shall be relieved of their duties.
- (i) Pending receipt of a criminal record transcript as specified in Section 82019, and prior to employment or at initial presence in the facility/center all employees and volunteers determined by the licensing agency to require criminal record clearance shall sign a statement under penalty of perjury, on a form provided by the Department, which contains either of the following:
 - (1) A declaration that he/she has not been convicted of a crime, other than a minor traffic violation as specified in Section 82019(f).
 - (2) Information regarding any prior convictions of a crime, with the exception of any minor traffic violations as specified in Section 82019(f).
 - (A) If a person has been convicted of a crime other than a minor traffic violation as specified in Section 82019(f), he/she shall also acknowledge that his/her continued employment is conditioned on approval of the licensing agency.
- (j) Clients shall not be used as substitutes for required staff but shall be permitted, as a voluntary part of their program of activities, to participate tasks suited to the client's needs and abilities.
 - (1) Such tasks shall be specified in the client's needs and services plan as specified in Section 82068.2.
- (k) When regular staff members are absent, there shall be coverage by personnel capable of performing assigned tasks as evidenced by on-the-job performance.
- (l) Personnel shall provide for the care and safety of persons without physical or verbal abuse, exploitation, or prejudice.
- (m) All personnel shall be instructed to report observations or evidence of violations of any of the personal rights specified in Section 82072.

82565

- (en) The licensee shall provide for an overlap of staff at each shift change to ensure continuity of care.
- (bo) In adult day support centers, ~~T~~there shall be at least two persons on duty, at least one of whom is a direct care staff member, at all times when there are two or more ~~participants~~ clients in the center.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 5453 and 5458, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1502.2, 1522, and 1531, and 1562, Health and Safety Code; and Section 42001, Vehicle Code.

Renumber Section 82565.1(a) et seq., (b), and (c)(3)(A) to Sections 82065.1(d) et seq., (e) and (f), and amend to read:

82065.1 PERSONNEL QUALIFICATIONS AND DUTIES

82065.1

(a) The following requirements shall apply to direct care staff and support staff of Adult Day Programs:

(b1) Direct ~~C~~care staff shall be responsible for care and supervision of clients, as defined in Section 802001(c)(2).

(12) Direct ~~C~~care staff shall not be assigned to any of the support staff duties specified in Section 82065.1(ab) below unless the care and supervision needs of clients have been met.

(ab) Support staff ~~shall perform the following~~ duties include, but shall not be limited to:

(1) Office work, including clerical, bookkeeping, and accounting.

(2) Cooking.

(3) Housecleaning.

(4) Maintenance of facility/center buildings, grounds, fixtures, furniture, equipment, and supplies.

(5) Administrative support.

(c) The following requirements shall apply to direct care staff of adult day support centers:

~~82565.1~~

(ad) The licensee shall develop, maintain, and implement a written plan for the orientation, continuing education, on-the-job training and development, supervision, and evaluation of all direct care staff.

(1) The plan shall require direct care staff to receive and document a minimum of 20 clock hours of continuing education during the first 18 months of employment or within 18 months after the effective date of these regulations, and during each three-year period thereafter.

(2) The administrator shall receive and document a minimum of 30 clock hours of continuing education every 24 months of employment.

- (3) Continuing education shall include completion of courses related to the principles and practices of care of the functionally impaired adult including, but not limited to, workshops, seminars, and academic classes.

(A) Courses shall be approved in writing by the licensing agency.

- (be) For each group of 25 ~~participants~~ clients, or fraction thereof, there shall be at least one direct care staff person who has a baccalaureate degree in a health, social or human service field, or one year documented full-time experience providing direct services to frail or physically, cognitively, or emotionally impaired adults.

~~82565.1(e)(3)~~

- (Af) During the performance of support staff duties a direct care staff member shall not be counted in the staff-to-~~participant~~ client ratio specified in Section ~~8250~~65.5.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, ~~and~~ 1531, and 1562, Health and Safety Code.

Renumber Sections 82565.5(a) and (b) to Sections 82065.5(d) and (e) and amend to read:

82065.5 STAFF-CLIENT RATIOS

82065.5

- (a) The following shall apply:
- (b) Whenever a client who relies upon others to perform all activities of daily living is present, the following minimum staffing requirements shall be met:
- (1) For Regional Center clients, staffing shall be maintained as specified by the Regional Center.
 - (2) For all other clients, there shall be a staff-client ratio of no less than one direct care staff to four such clients.
- (ac) For adult day care facilities, ~~There~~ shall be an overall ratio of not less than one staff member providing care and supervision for each 15 clients present.

~~82565.5~~

- (ad) For adult day support centers, ~~There~~ shall be an overall ratio of not less than one direct care staff member providing care and supervision for each group of eight ~~participants~~ clients, or fraction thereof, present.
- (ee) Notwithstanding Section 802065(c), volunteers in adult day support centers may be included in the staff-to-~~participant~~ client ratio if the volunteer meets the requirements for direct care staff as specified in Section 825001(d-)(16).

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1507, 1511, ~~and~~ 1531, and 1562, Health and Safety Code.

Adopt new Section 82066 to read:

82066 PERSONNEL RECORDS

82066

(a) Personnel records shall be maintained on the licensee, administrator, and each employee and shall contain the following information:

- (1) Employee's full name.
- (2) Driver's license number if the employee is to transport clients.
- (3) Date of employment.
- (4) A statement signed by the employee that he/she is at least 18 years of age.
- (5) Home address and phone number.
- (6) Documentation of the educational background, training and/or experience.
- (7) Past experience, including types of employment and former employers.
- (8) Duties of the employee.
- (9) Termination date if no longer employed by the facility/center.
- (10) A health screening specified in Section 82065(g)(2).
- (11) Tuberculosis test documents as specified in Section 82065(g)(1).
- (12) For employees that are required to be fingerprinted pursuant to Section 82019:
 - (A) A signed statement regarding their criminal record history.
 - (B) Documentation of either a criminal record clearance or exemption.

(b) Personnel records shall be maintained for all volunteers and shall contain the following:

- (1) A health statement as specified in Section 82065(g)(3).
- (2) Tuberculosis test documents as specified in Section 82065(g)(3).
- (3) For volunteers that are required to be fingerprinted pursuant to Section 82019:

- (A) A signed statement regarding their criminal record history.
- (B) Documentation of either a criminal record clearance or exemption.
- (c) All personnel records shall be retained for at least three years following termination of employment.
- (d) All personnel records shall be maintained at the facility/center site and shall be available to the licensing agency for review.
 - (1) The licensee shall be permitted to retain such records in a central administrative location provided that they are readily available to the licensing agency at the facility/center site upon request.
- (e) In all cases, personnel records shall document the hours actually worked.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Adopt new Section 82068 to read:

82068 ADMISSION AGREEMENTS

82068

- (a) The licensee shall complete and maintain an individual written admission agreement with each client and the client's authorized representative, if any.
- (b) The licensee shall complete and maintain in the client's file a Telecommunications Device Notification (LIC 9158) for each client whose pre-admission appraisal or medical assessment indicates he/she is deaf, hearing-impaired, or otherwise disabled.
- (c) Admission agreements must specify the following:
 - (1) Basic services.
 - (2) Available optional services.
 - (3) Payment provisions, including the following:
 - (A) Basic rate.
 - (B) Optional services rates.
 - (C) Payor.
 - (D) Due date.
 - (E) Frequency of payment.
 - (4) Modification conditions, including requirement for provision of at least 30 calendar days prior written notice to the client or his/her authorized representative of any basic rate change.
 - (5) Refund conditions.
 - (6) Right of the licensing agency to perform the duties authorized in Sections 82044(b) and (c).
 - (7) Conditions under which the agreement may be terminated.
 - (A) The client's refusal to cooperate with the licensee's implementation of his/her Needs and Services Plan, as specified in Section 82068.2 or 82068.3, must be one of the conditions.

- (8) The facility's/center's policy concerning family visits and other communication with clients, pursuant to Health and Safety Code Section 1512.

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- (A) Section 1512 of the Health and Safety Code paraphrases in part:

This policy shall be designed to encourage regular family involvement with the client and shall provide ample opportunities for family participation in activities at the facility.

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- (d) Such agreements shall be dated and signed, acknowledging the contents of the document, by the client and the client's authorized representative and the licensee or the licensee's designated representative, no later than seven calendar days following admission.
- (e) Modifications to the original agreement shall be made whenever circumstances covered in the agreement change, and shall be dated and signed by the persons specified in Section 82068(d).
- (f) The licensee shall retain in the client's file the original of the initial admission agreement and all subsequent modifications.
- (1) The licensee shall provide a copy of the current admission agreement to the client and the client's authorized representative, if any.
- (g) The licensee shall comply with all terms and conditions set forth in the admission agreement.
- (h) The admission agreement shall be automatically terminated by the death of the client. No liability or debt shall accrue after the date of death.

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- (1) This does not preclude payments ordered by a court of competent jurisdiction.

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Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1507, 1512, 1524.7, and 1531, Health and Safety Code; and
Section 4803, Welfare and Institutions Code.

Renumber Sections 82568.2(b)(1) through (7) et seq., (c), and (d) to Sections 82068.2(i)(1) through (7) et seq., (j), and (k) et seq., and amend to read:

82068.2 NEEDS AND SERVICES PLAN

82068.2

- (a) Prior to admission, the licensee shall determine whether the facility's/center's program can meet the prospective client's service needs.
- (b) If the client is to be admitted and has no restricted health condition(s) as specified in Section 80092, then, no later than 30 days after admission, the licensee shall complete a written Needs and Services Plan. ~~that must include:~~
- (c) If the client has an existing needs appraisal or individual program plan (IPP) completed by a placement agency, or a consultant for the placement agency, the Department may consider the plan to meet the requirements of this section provided that:
 - (1) The needs appraisal or IPP is not more than one year old.
 - (2) The licensee and the placement agency agree that the client's physical, mental and emotional status has not significantly changed since the assessment.
- (d) The written Needs and Services Plan specified in Section 82068.2(a), shall be maintained in the client's file.
- (e) In addition to the requirements of Sections 82068.2(i)(1) through (6) for adult day care facilities, Sections 82068.2(g) and (h) shall apply.
- (f) The completed Needs and Services Plan shall include:
 - (1) The client's desires and background and formal supports, obtained from the client's family or his/her authorized representative, if any, regarding the following:
 - (A) Admission to the facility.
 - (B) Medical information including primary physician, health problems and medical history, prescribed medications and their strength, quantity required and purpose.
 - (C) Mental and emotional functioning.
 - (D) Functional limitations including physical impairments or concerns.
 - (1). The licensee may use Section 80069.2 for assistance.

- (E) Specific service needs, if any.
- (2) Scheduled days of attendance.
- (3) Transportation arrangements.
- (eg) If the client is to be admitted, and has a restricted health condition as specified in Section 802092(eb) then, the licensee shall develop the Needs and Services Plan prior to admission.
- (h) In addition to the requirements of Sections 82068.2(a) through (e) for adult day support centers, Sections 82068.2(i) through (k) shall apply:
 - (i) The written Needs and Services Plan shall include:

~~82568.2(b)~~

 - (1) A social history.
 - (2) Identification of formal support systems.
 - (3) A description of limitation of activities of daily living skills.
 - (4) Mental and emotional functioning.
 - (5) A written medical assessment as specified in Section 802069.
 - (6) Scheduled days of attendance.
 - (7) A summary of the assessment findings in Sections ~~825068.2(bk)~~(1) through (5) and plans for providing services to meet the identified needs, including:
 - (A) A plan to ~~meet the transportation needs of the participant~~ provide, arrange, or assist in transportation of the client to and from the center.
 - (B) Time-limited goals and objectives of the care and services to be provided, with provisions for review and modifications as needed.
 - (C) An individual activity plan designed to meet the needs of the ~~participant~~ client for psychosocial and recreational activities.
 - (D) Recommendations for referrals to other service providers and therapy which the adult day support center will coordinate.

- (E) Prescribed medications, dosages, and frequency, if any.
- (ej) In addition to the requirements in Sections ~~8250~~68.2(bj)(1) through ~~(b)(67)~~, if the ~~participant~~ client is to be admitted and has a restricted health condition as specified in Section ~~802~~092, the Needs and Services Plan must include a Restricted Health Condition Care Plan, as specified in Section ~~802~~092.2.
- (ek) The licensee shall involve the following persons in the development of the Needs and Services Plan:
- (1) The ~~participant~~ client and his/her authorized representative, if any.
 - (2) Any relative or other care provider participating in placement.
 - (3) The placement or referral agency, if any.
 - (4) The licensee or his/her designee.
 - (5) A direct care staff person as specified in Section ~~82565.5(b)~~ 82001(d)(6).

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1507, and 1531, Health and Safety Code.

Renumber Sections 82568.3(a) and (b) to Section 82068.3(b) and (b)(1) and amend to read:

82068.3 MODIFICATIONS TO NEEDS AND SERVICES PLAN

82068.3

- (a) For adult day care facilities, the written Needs and Services Plan specified in Section 82068.2 must be updated as frequently as necessary, but at least annually, to ensure its accuracy, and to document significant occurrences that result in changes in the client's physical, mental and/or social functioning. These modifications shall be maintained in the client's file.

~~82568.3~~

- ~~(a)~~ ~~Notwithstanding the requirements of Section 80068.3, For adult day support centers, a reassessment shall be completed for each participant client at least every six months or more frequently, if needed, to ensure the accuracy of the assessment of appropriateness of the Needs and Services Plan, and to document significant occurrences that result in changes in the participant's client's physical, mental, and/or psychological functioning.~~
- (b1) An updated list of medications currently taken by the participant client shall be included in the reassessment.
- (2) These modifications shall be maintained in the client's file.
- (c) The following shall apply to all adult day programs:
- (1) If the licensee determines that the client's needs cannot be met, the licensee shall inform the client, and his/her authorized representative, if any, and the placement agency, if any, and request that the client relocate to a facility/center that can provide the needed services.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1507, and 1531, Health and Safety Code.

1. Renumber Section 82568.5 to Section 82068.5 and amend to read:
2. 15-Day Renote: Amend Section 82068.5 to read:

825068.5 PROCEDURES FOR DISCHARGE

825068.5

~~(a) The following applies to adult day support centers only:~~

- (a1) A minimum of two weeks' notice shall be given to a participant client and his/her family and care providers if it is determined that the center can no longer meet the needs of the participant client, and he/she must be discharged from the program.
- (b2) The immediate discharge of an individual shall be allowed when it is determined that the individual's condition has suddenly changed and participation in the center is likely to cause danger to self or others.
 - (1A) The licensing agency shall be notified by telephone within the agency's next working day during normal business hours and in writing within seven days when a participant client is discharged without the two weeks notice.
- (e3) The center shall refer the participant client to other agencies for continuing care and follow-up, as needed.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Adopt new Section 82069 to read:

82069 CLIENT MEDICAL ASSESSMENTS

82069

- (a) Prior to or within 30 calendar days following the acceptance of a client, the licensee shall obtain a written medical assessment of the client, as specified in Section 82069(b), which enables the licensee to determine his/her ability to provide necessary health related services to the client. The assessment shall be used in developing the Needs and Services Plan.
 - (1) The assessment shall be performed by a licensed physician or designee, who is also a licensed professional, and the assessment shall not be more than one year old when obtained.
- (b) The medical assessment shall include the following:
 - (1) The results of an examination for communicable tuberculosis and other contagious/infectious diseases.
 - (2) Identification of the client's special problems and needs.
 - (3) Identification of any prescribed medications being taken by the client.
 - (4) A determination of the client's ambulatory status, as defined by Section 82001(n)(2).
 - (5) Identification of physical restrictions, including any medically necessary diet restrictions, to determine the client's capacity to participate in the licensee's program.
- (c) The licensing agency shall have the authority to require the licensee to obtain a current written medical assessment, if such an assessment is necessary to verify the appropriateness of a client's placement.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, 1528, 1530, and 1531, Health and Safety Code.

Adopt new Section 82070 and renumber Section 82570(b) et seq. to Section 82070(g) et seq. and amend to read:

82070 CLIENT RECORDS

82070

- (a) A separate, complete, and current record shall be maintained in the facility/center for each client.
- (b) Each record must contain information including, but not limited to, the following:
 - (1) Name of client.
 - (2) Birthdate.
 - (3) Sex.
 - (4) Date of admission.
 - (5) Names, addresses, and telephone numbers of the authorized representative.
 - (6) A signed copy of the admission agreement specified in Section 82068.
 - (7) Name, address, and telephone number of physician and dentist, and other medical and mental health providers, if any.
 - (8) Medical assessment, including ambulatory status, as specified in Section 82069.
 - (9) Record of any illness or injury requiring treatment by a physician or dentist and for which the facility/center provided assistance to the client in meeting his/her necessary medical and dental needs.
 - (10) Record of current medications, including the name of the prescribing physician, and instructions, if any, regarding control and custody of medications.
 - (11) Restricted health condition care plan, if required for the client by Section 82068.2 (j).
 - (12) Date of termination of services.
 - (13) In those cases in which the licensee handles the client's cash, an account of the client's cash resources, personal property, and valuables entrusted as specified in Section 82026.

- (c) All information and records obtained from or regarding clients shall be confidential.
 - (1) The licensee shall be responsible for safeguarding the confidentiality of record contents.
 - (2) Except as specified in Section 82070(d), or as otherwise authorized by law, the licensee and all employees shall not reveal or make available confidential information.
- (d) All client records shall be subject to reproduction by the licensing agency upon demand during normal business hours.
 - (1) A client's records shall also be open to inspection by the client's authorized representative, if any.
- (e) The information specified in Sections 82070(b)(1) through (13) must be updated as necessary to ensure the accuracy of the client's record.
- (f) Original or photographic reproduction of all client records shall be retained for at least three years following termination of service to the client.

82570

- (b)g) In addition to Sections 82070(a) through (f), each an adult day support center client's record shall contain, but is not limited to, the following information:
 - (1) Needs and Services Plan as specified in Sections ~~802068.2 and 82568.2~~.
 - (2) Modifications to the Needs and Services Plan as specified in Sections ~~802068.3 and 82568.3~~.
 - (3) Authorization, signed and dated by the ~~participant~~ client or his/her authorized representative, to specific individuals/agencies for release of medical information, or a statement signed and dated by the client or authorized representative, that the client or authorized representative will not sign an authorization.
 - (4) Authorization, signed and dated by the ~~participant~~ client or his/her authorized representative, for the ~~participant~~ client to receive emergency medical care, if necessary, or a statement signed and dated by the ~~participant~~ client or authorized representative, that the ~~participant~~ client will not sign an authorization.
 - (5) Correspondence and incident reports relating to the ~~participant~~ client.
 - (6) Reason for discharge from the center.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1507, 1528, and 1531, Health and Safety Code.

Adopt new Section 82071 to read:

82071 REGISTER OF CLIENTS

82071

(a) In all licensed facilities/centers, the following shall apply:

(1) The licensee shall maintain in the facility/center a current register of all clients, that must be maintained; shall be updated as needed; shall be immediately available to licensing staff upon request; and must contain the following information:

(A) Client's name and ambulatory status as specified in Sections 82070(b)(1) and (8).

(B) Name, address, and telephone number of client's attending physician.

(C) Authorized representative information as specified in Section 82070(b)(5).

(D) Client's restricted health condition(s) as specified in Section 82092(b).

1. The licensee may keep a separate client register with this information.

(2) The licensee shall keep the register in a central location at the facility/center.

(A) Registers are confidential, as specified in Section 82070(c).

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1507 and 1557.5, Health and Safety Code.

Adopt new Section 82072 to read:

82072 PERSONAL RIGHTS

82072

- (a) Each client shall have personal rights which include, but are not limited to, the following:
- (1) To be accorded dignity in his/her personal relationships with staff and other persons.
 - (2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment to meet his/her needs.
 - (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to: interference with the daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication, or aids to physical functioning.
 - (4) To be informed, and to have his/her authorized representative, if any, informed, by the licensee of the provisions of law regarding complaints including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency, and of information regarding confidentiality.

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- (A) Provisions regarding inspection requests are found in Health and Safety Code Section 1538, which reads in part:
- “(a) Any person may request an inspection of any community care facility or certified family home in accordance with this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state,...
- “(b) The substance of the complaint shall be provided to the licensee or certified family home and foster family agency no earlier than at the time of the inspection....
- “(c) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility or certified family home, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection of the community care facility or certified family home within 10

days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

“ ... ”

HANDBOOK ENDS HERE

- (5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice.

 - (A) Attendance at religious services, in or outside of the facility/center, shall be on a completely voluntary basis.
- (6) To leave or depart the facility/center at any time.

 - (A) The licensee shall not be prohibited by this provision from setting house rules for the protection of clients.
 - (B) This provision shall not apply to clients for whom a guardian, conservator, or other legal authority has been appointed.
- (7) Not to be locked in any room, building, or facility/center premises.

 - (A) The licensee shall not be prohibited by this provision from locking exterior doors and windows or from establishing rules for the protection of clients provided the clients are able to exit the facility/center.
 - (B) The licensee shall be permitted to utilize means other than those specified in Section 82072(a)(7)(A) for securing exterior doors and windows only with the prior approval of the licensing agency.
- (8) Not to be placed in any restraining device. Postural supports may be used if they are approved in advance by the licensing agency as specified in Sections 82072(a)(8)(A) through (F).

 - (A) Postural supports shall be limited to appliances or devices including braces, spring release trays, or soft ties, used to achieve proper body position and balance, to improve a client's mobility and independent functioning, or to position rather than restrict movement including, but not limited to, preventing a client from falling out of bed, a chair, etc.

1. Physician-prescribed orthopedic devices such as braces or casts used for support of a weakened body part or correction of body parts are considered postural supports.
- (B) All requests to use postural supports shall be in writing and include a written order of a physician indicating the need for such supports. The licensing agency shall be authorized to require other additional documentation in order to evaluate the request.
- (C) Approved postural supports shall be fastened or tied in a manner which permits quick release by the client.
- (D) The licensing agency shall approve the use of postural supports only after the appropriate fire clearance, as required by Section 82020(a) or (b), has been secured.
- (E) The licensing agency shall have the authority to grant conditional and/or limited approvals to use postural supports.
- (F) Under no circumstances shall postural supports include tying of, or depriving or limiting the use of, a client's hands or feet.
 1. A bed rail that extends from the head half the length of the bed and used only for assistance with mobility shall be allowed with prior licensing approval. Bed rails that extend the entire length of the bed are prohibited.
- (G) Protective devices including, but not limited to, helmets, elbow guards, and mittens which do not prohibit a client's mobility but rather protect the client from self-injurious behavior are not to be considered restraining devices for the purpose of this regulation. Protective devices may be used if they are approved in advance by the licensing agency as specified in Sections 82072(a)(8)(G)1. and 2.
 1. All requests to use protective devices shall be in writing and include a written order of a physician indicating the need for such devices. The licensing agency shall be authorized to require additional documentation including, but not limited to, the Individual Program Plan (IPP) as specified in Welfare and Institutions Code Section 4646, and the written consent of the authorized representative, in order to evaluate the request.
 2. The licensing agency shall have the authority to grant conditional and/or limited approvals to use protective devices.

- (9) To receive or reject medical care, or health-related services, except for clients for whom a guardian, conservator, or other legal authority has been appointed.
- (10) To be informed of the facility's/center's policy concerning family visits and other communication with clients, as specified in Health and Safety Code Section 1512.
- (b) At admission, a client and the client's authorized representative shall be personally advised of and given a list of the rights specified in Sections 82072(a)(1) through (10) above.
- (c) The information specified in Section 82072(b) above, including the policy for visitors as stated in the admissions agreement shall be prominently posted in areas accessible to clients and their visitors.
- (d) The licensee shall ensure that each client is accorded the personal rights as specified in this section.

HANDBOOK BEGINS HERE

- (1) Section 1512 of the Health and Safety Code provides in part:

“The community care facility’s policy concerning family visits and communication shall be designed to encourage regular family involvement with the ... client and shall provide ample opportunities for family participation in activities at the facility.”

HANDBOOK ENDS HERE

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1512, 1528, 1531, and 1538, Health and Safety Code.

Adopt new Section 82073 to read:

82073 TELEPHONES

82073

(a) All facilities/centers shall have telephone service on the premises.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1528, 1531, and 1539, Health and Safety Code.

Adopt new Section 82074 to read:

82074 TRANSPORTATION

82074

- (a) Only drivers licensed for the type of vehicle operated shall be permitted to transport clients.
- (b) The manufacturer's rated seating capacity of the vehicles shall not be exceeded.
- (c) Motor vehicles used to transport clients shall be maintained in a safe operating condition.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1528, and 1531, Health and Safety Code.

Renumber Sections 82575(b) through (g) to Sections 82075(q) through (v) and amend to read:

82075 HEALTH-RELATED SERVICES

82075

Sections 82075(a) through (p) apply to Adult Day Care Facilities and Adult Day Support Centers

(a) ~~In addition to Section 80075, the following shall apply.~~ The licensee shall ensure that:

(1) Each client receives necessary first aid and other needed medical or dental services.

(A) If needed, this shall include arrangement for transportation to the nearest available facility that can provide the needed medical or dental services.

(2) Clients are assisted as needed with self-administration of prescription and nonprescription medications.

(A) Facility/center staff who receive supervision and training from a licensed professional may assist clients with metered-dose inhalers, and dry powder inhalers provided both of the following requirements are met:

1. The licensee obtains from the licensed professional written documentation outlining the procedures and the names of facility/center staff who received the training.

2. The licensee ensures that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.

(B) Staff may be trained by the client's family or primary caregiver. The same documentation and supervision requirements specified in Sections 82075(a)(2)(A)1. and 2. shall apply.

(C) Facility/center staff, except those authorized by law, shall not administer injections but staff designated by the licensee shall be authorized to assist clients with self-administration of injections as needed.

(D) Assistance with self-administration does not include forcing a client to take medications, hiding or camouflaging medications in other substances without the client's knowledge and consent, or otherwise infringing upon a client's right to refuse to take a medication.

- (b) If the client's physician has stated in writing that the client is able to determine and communicate his/her need for a prescription or nonprescription PRN medication, facility/center staff shall be permitted to assist the client with self-administration of their PRN medication.
- (c) If the client's physician has stated in writing that the client is unable to determine his/her own need for nonprescription PRN medication, but can communicate his/her symptoms clearly, facility/center staff designated by the licensee shall be permitted to assist the client with self-administration, providing all of the following requirements are met:
 - (1) There is a written direction from a physician, on a prescription blank, specifying the name of the client, the name of the medication, all of the information specified in Section 82075(e), instructions regarding a time or circumstance (if any) when it should be discontinued, and an indication of when the physician should be contacted for a medication reevaluation.
 - (2) Once ordered by the physician the medication is given according to the physician's directions.
 - (3) A record of each dose is maintained in the client's record. The record shall include the date and time the PRN medication was taken, the dosage taken, and the client's response.
- (d) If the client is unable to determine his/her own need for a prescription or nonprescription PRN medication, and is unable to communicate his/her symptoms clearly, facility/center staff designated by the licensee, shall be permitted to assist the client with self-administration, provided all of the following requirements are met:
 - (1) Facility/center staff shall contact the client's physician prior to each dose, describe the client's symptoms, and receive direction to assist the client in self-administration of that dose of medication.
 - (2) The date and time of each contact with the physician, and the physician's directions, shall be documented and maintained in the client's facility/center record.
 - (3) The date and time the PRN medication was taken, the dosage taken, and the client's response, shall be documented and maintained in the client's facility/center record.
- (e) For every prescription and nonprescription PRN medication for which the licensee provides assistance, there shall be a signed, dated written order from a physician on a prescription blank, maintained in the client's file, and a label on the medication. Both the physician's order and the label shall contain at least all of the following information.
 - (1) The specific symptoms which indicate the need for the use of the medication.

- (2) The exact dosage.
 - (3) The minimum number of hours between doses.
 - (4) The maximum number of doses allowed in each 24-hour period.
- (f) The isolation room or area specified in Section 82087(d) shall be used where separation from others is required.
- (g) There shall be privacy for first aid treatment of minor injuries and for examination or treatment by a medical professional if required.
- (h) When a client requires oxygen the licensee is responsible for the following:
 - (1) Monitoring the client's ongoing ability to operate and care for the equipment in accordance with the physician's instructions, or if the client is unable to do so:
 - (A) Ensuring that an adequate number of facility/center staff persons are designated to operate and care for the equipment and that those staff persons receive training from the client's family or primary caregiver.
 - 1. The licensee shall maintain, in the client's file, documentation of the training and which staff members were trained.
 - (2) Ensuring that the following conditions are met if oxygen equipment is in use:
 - (A) The licensee makes a written report to the local fire jurisdiction that oxygen is in use at the facility/center.
 - (B) "No Smoking - Oxygen in Use" signs shall be posted in appropriate areas.
 - (C) Smoking is prohibited where oxygen is in use.
 - (D) All electrical equipment is checked for defects that may cause sparks.
 - (E) Oxygen tanks which are not portable are secured either in a stand or to the wall.
 - (F) Plastic tubing from the nasal canula (mask) to the oxygen source is long enough to allow the client movement but does not constitute a hazard to the client or others.

- (G) Clients use oxygen from a portable source when walking in a day care setting.
 - (H) Equipment is operable.
 - (I) Facility/center staff have knowledge and ability to operate and care for the oxygen equipment.
 - (J) Equipment is removed from the facility/center when no longer in use by the client.
- (i) Staff responsible for providing direct care and supervision shall receive training in first aid from persons qualified by agencies including, but not limited to, the American Red Cross.
- (j) If the facility/center has no medical unit on the grounds, first aid supplies shall be maintained and be readily available in a central location in the facility/center.
 - (1) The supplies shall include at least the following:
 - (A) A current edition of a first aid manual approved by the American Red Cross, the American Medical Association or a state or federal health agency.
 - (B) Sterile first aid dressings.
 - (C) Bandages or roller bandages.
 - (D) Adhesive tape.
 - (E) Scissors.
 - (F) Tweezers.
 - (G) Thermometers.
 - (H) Antiseptic solution.
- (k) There shall be at least one person capable of and responsible for communicating with emergency personnel in the facility/center at all times. The following information shall be readily available:
 - (1) The name, address, and telephone number of each client's physician and dentist, and other medical and mental health providers, if any.

- (2) The telephone number of each emergency agency, including, but not limited to, the police department, the fire department, or paramedical unit. There shall be at least one medical resource available to be called at all times.
 - (3) The name and telephone number of an ambulance service.
 - (b) The licensee shall obtain, from the client or his/her authorized representative, an authorization to secure for the client necessary emergency medical services.
 - (1) Such authorization shall be maintained on file in the facility.
 - (2) The licensee shall not be required to obtain such an authorization from clients who adhere to a religious faith practicing healing by prayer or other spiritual means.
 - (A) Under such circumstances, the licensee shall obtain a statement from the client or his/her authorized representative which states the adherence to such religion.
- (m) When a client requires prosthetic devices, or vision or hearing aids, the staff shall be familiar with the use of these devices and aids and shall assist the client with their utilization as needed.
- (n) Medications shall be centrally stored under the following circumstances:
 - (1) Preservation of the medication requires refrigeration.
 - (2) Any medication determined by the physician to be hazardous if kept in the personal possession of the client for whom it was prescribed.
 - (3) Because of physical arrangements and the condition or the habits of persons in the facility/center, the medications are determined by either the administrator or by the licensing agency to be a safety hazard.
- (o) The following requirements shall apply to medications which are centrally stored:
 - (1) Medication shall be kept in a safe and locked place that is not accessible to persons other than employees responsible for the supervision of the centrally stored medication.
 - (2) Each container shall identify the items specified in Sections 82075(o)(7)(A) through (H).
 - (3) All medications shall be labeled and maintained in compliance with label instructions and state and federal laws.

- (4) No person other than the dispensing pharmacist shall alter a prescription label.
- (5) Each client's medication shall be stored in its originally received container.
- (6) No medications shall be transferred between containers.
- (7) The licensee shall ensure the maintenance, for each client, of a record of centrally stored prescription medications which is retained for at least one year and includes the following:
 - (A) The name of the client for whom prescribed.
 - (B) The name of the prescribing physician.
 - (C) The drug name, strength, and quantity.
 - (D) The date filled.
 - (E) The prescription number and the name of the issuing pharmacy.
 - (F) Expiration date.
 - (G) Number of refills.
 - (H) Instructions, if any, regarding control and custody of the medication.
- (p) Prescription medications which are not taken with the client upon termination of services, or which are not to be retained shall be destroyed by the facility/center administrator, or a designated substitute, and one other adult who is not a client.
 - (1) Both shall sign a record, to be retained for at least one year, which lists the following:
 - (A) Name of the client.
 - (B) The prescription number and the name of the pharmacy.
 - (C) The drug name, strength, and quantity destroyed.
 - (D) The date of destruction.

82575

- (bq) The adult day support center shall notify the family/care provider and/or physician of any significant changes in the ~~participant's~~ client's physical or mental condition.
- (er) The center shall make available health education material to the ~~participants~~ clients, family, and care providers.
- (ds) The center shall encourage and/or arrange appropriate contacts with health professionals and ~~facility~~ center staff shall keep themselves informed of the ~~participant's~~ clients health status.
- (et) The center shall train program staff and ~~participants~~ clients in emergency procedures.
- (fu) The center shall have at least one full-time staff member who has a current certificate in first aid and cardiopulmonary resuscitation present in the ~~facility~~ center during operating hours.
- (gv) The center staff shall call emergency medical personnel whenever necessary, with or without the authorization required in Section 825070(bg)(4).

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1502.2, 1507, 1530, and 1531, Health and Safety Code.

Amend Section 82075.1 to read:

82075.1 DAILY INSPECTION FOR ILLNESS

82075.1

- (a) The licensee shall ensure daily that ~~participants~~ clients with obvious symptoms of illness are not accepted in the facility/center unless they are separated from other ~~participants~~ clients.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1507₂ and 1531, Health and Safety Code.

Amend Section 82076 to read:

82076 FOOD SERVICE

82076

(a) ~~In addition to Section 80076, the following shall apply:~~ In facilities/centers providing meals to clients, the following shall apply:

- (1) All food shall be safe and of the quality and in the quantity necessary to meet the needs of the clients. Each meal shall meet at least 1/3 of the servings recommended in the USDA Basic Food Group Plan - Daily Food Guide for the age group served. All food shall be selected, stored, prepared and served in a safe and healthful manner.

HANDBOOK BEGINS HERE

(A) USDA BASIC FOOD GROUP PLAN DAILY FOOD GUIDE

<u>FOODS TO INCLUDE</u> <u>DAILY</u>	<u>SERVING</u> <u>SIZE</u>	<u>RECOMMENDED NUMBER OF</u> <u>SERVINGS FOR EACH GROUP</u>		
		<u>ADULT</u>	<u>PREGNANT</u> <u>NURSING</u>	<u>OLDER</u> <u>ADULT</u>
<u>MILK & MILK PRODUCTS</u>				
<u>milk</u>	<u>8 oz.</u>			
<u>yogurt</u>	<u>8 oz.</u>			
<u>cheese</u>	<u>2 oz.</u>	<u>2</u>	<u>3 or</u>	<u>2</u>
<u>cottage</u>	<u>1&1/2 C</u>		<u>more</u>	
<u>ice cream</u>	<u>2 C</u>			
<u>tofu</u>	<u>8 oz.</u>			
<u>MEAT & ALTERNATES</u>				
<u>beef, pork, lamb, fowl, fish</u>	<u>3 oz.</u>			
<u>small serv.</u>	<u>1&1/2 oz.</u>			
<u>Alternates for meat</u>	<u>eq. to</u>	<u>2</u>	<u>2 or</u>	<u>2</u>
	<u>2-3 oz.</u>		<u>more</u>	
<u>beans, peas and lentils</u>	<u>1-1&1/2 C</u>			
<u>peanut butter</u>	<u>4-6 Tbsp.</u>			
<u>eggs</u>	<u>2-3</u>			
<u>cheese</u>	<u>2-3 oz.</u>			
<u>cottage</u>	<u>1/2-3/4 C</u>			
<u>canned fish</u>	<u>1/2-3/4 C</u>			
<u>nuts</u>	<u>2/3-1 C</u>			
<u>tofu</u>	<u>6-9 oz.</u>			
<u>wheat germ</u>	<u>1/2-3/4 C</u>			
<u>sunflower, pumpkin,</u>				
<u>& sesame seeds</u>	<u>1/2-3/4 C</u>			

<u>FOODS TO INCLUDE</u> <u>DAILY</u>	<u>SERVING</u> <u>SIZE</u>	<u>RECOMMENDED NUMBER OF</u> <u>SERVINGS FOR EACH AGE GROUP</u>		
		<u>ADULT</u>	<u>PREGNANT</u> <u>NURSING</u>	<u>OLDER</u> <u>ADULT</u>
<u>DEEP GREEN AND/OR</u> <u>YELLOW VEGETABLES</u> small serving	<u>1/2 C</u> <u>1/4-1/3 C</u>	<u>1</u>	<u>1 or</u> <u>more</u>	<u>1</u>
<u>OTHER VEGETABLES,</u> <u>JUICES AND FRUITS</u> small serving	<u>1/2 C</u> <u>1/4-1/3 C</u>	<u>2</u>	<u>2 or</u> <u>more</u>	<u>2</u>
<u>HIGH VITAMIN C</u> <u>FRUITS AND/OR</u> <u>JUICES, sm serv.</u>	<u>1/2 C</u> <u>1/4-1/3 C</u>	<u>1</u>	<u>1 or</u> <u>more</u>	<u>1</u>
<u>BREADS & CEREALS</u> (whole gr. or enriched) bread	<u>1 slice</u>			
dry cereal	<u>3/4 C</u>			
cooked cereal, rice, noodles	<u>1/2 C</u>			
crackers	<u>4</u>	<u>4</u>	<u>4 or</u> <u>more</u>	<u>3-4</u>
tortilla	<u>1 med</u>			
small serv = 1/2 of the serv sizes for breads & cereals				
<u>OTHER FOODS: inc. fats,</u> <u>sweets, desserts, etc.</u>			<u>AS APPROPRIATE TO ENERGY NEEDS</u>	
<u>FLUIDS: inc. water</u>			<u>AS APPROPRIATE TO NEEDS</u>	
<u>MISCELLANEOUS: iodized</u> <u>salt, fiber, vitamin supplement, etc.</u>			<u>AS APPROPRIATE TO NEEDS</u>	

*Count cheese as one serving of milk or meat, not both. Adapted from the OREGON DIET MANUAL, fifth edition, 1975, State of Oregon Department Human Resources.

HANDBOOK ENDS HERE

- (2) Where meal service within a facility/center is elective, arrangements shall be made to ensure availability of a daily food intake meeting the requirement of Section 82076(a)(1) for all clients who, in their admission agreement, elect meal service.
- (3) Between meal nourishment or snacks shall be available for all clients unless limited by dietary restrictions prescribed by a physician.

- (4) Menus shall be written at least one week in advance and copies of the menus as served shall be dated and kept on file for at least 30 days. Menus shall be made available for review by the clients or their authorized representatives and the licensing agency upon request.
- (5) Modified diets prescribed by a client's physician as a medical necessity shall be provided.
 - (A) The licensee shall obtain and follow instructions from the physician or dietitian on the preparation of the modified diet.
- (6) Commercial foods shall be approved by appropriate federal, state and local authorities. All foods shall be selected, transported, stored, prepared and served so as to be free from contamination and spoilage and shall be fit for human consumption. Food in damaged containers shall not be accepted, used or retained.
- (7) Where indicated, food shall be cut, chopped or ground to meet individual needs.
- (8) Powdered milk shall not be used as a beverage but shall be allowed in cooking and baking. Raw milk, as defined in Division 15 of the California Food and Agricultural Code, shall not be used. Milk shall be pasteurized.
- (9) Except upon written approval by the licensing agency, meat, poultry and meat food products shall be inspected by state or federal authorities. Written evidence of such inspection shall be available for all products not obtained from commercial markets.
- (10) All home canned foods shall be processed in accordance with standards of the University of California Agricultural Extension Service. Home canned foods from outside sources shall not be used.
- (11) If food is prepared off the facility/center premises, the following shall apply:
 - (A) The preparation source shall meet all applicable requirements for commercial food services.
 - (B) The facility/center shall have the equipment and staff necessary to receive and serve the food and for cleanup.
 - (C) The facility/center shall maintain the equipment necessary for in-house preparation, or have an alternate source for food preparation, and service of food in emergencies.

- (12) All persons engaged in food preparation and service shall observe personal hygiene and food services sanitation practices which protect the food from contamination.
- (13) All foods or beverages capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxications shall be stored in covered containers at 45 degrees F (7.2 degrees C) or less.
- (14) Pesticides and other similar toxic substances shall not be stored in food storerooms, kitchen areas, food preparation areas, or areas where kitchen equipment or utensils are stored.
- (15) Soaps, detergents, cleaning compounds or similar substances shall be stored in areas separate from food supplies.
- (16) All kitchen, food preparation, and storage areas shall be kept clean, free of litter and rubbish, and measures shall be taken to keep all such areas free of rodents, and other vermin.
- (17) All food shall be protected against contamination. Contaminated food shall be discarded immediately.
- (18) All equipment, fixed or mobile, dishes, and utensils shall be kept clean and maintained in safe condition.
- (19) All dishes and utensils used for eating and drinking and in the preparation of food and drink, shall be cleaned and sanitized after each usage.
 - (A) Dishwashing machines shall reach a temperature of 165 degrees F (74 degrees C) during the washing and/or drying cycle to ensure that dishes and utensils are cleaned and sanitized.
 - (B) Facilities/centers not using dishwashing machines shall clean and sanitize dishes and utensils by an alternative comparable method.
- (20) Equipment necessary for the storage, preparation and service of food shall be provided, and shall be well-maintained.
- (21) Tableware and tables, dishes, and utensils shall be provided in the quantity necessary to serve the clients.
- (22) Adaptive devices shall be provided for self-help in eating as needed by clients.
- (b) The licensing agency shall have the authority to require the facility/center to provide written information, including menus, regarding the food purchased and used over a

given period when it is necessary to determine if the licensee is in compliance with the food service requirements in the regulations in this Division.

- (1) The licensing agency shall specify in writing the written information required from the licensee.
- (~~b~~c) A client in care for less than eight hours shall be provided meals and snacks so that no more than three and a half hours elapses between food service.
- (~~e~~d) A client in care for a period of eight hours or longer, shall be provided a midmorning snack, lunch and a midafternoon snack.
- (~~d~~e) A licensee who accepts a client at 7:00 a.m. or earlier shall include a provision in the admission agreement of that client, stating whether or not breakfast will be provided by the facility/center.
- (~~e~~f) Clients shall be permitted to bring their own food to the facility/center.
 - (1) If the client brings all or part of his/her own food to the facility/center, the licensee shall ensure that the food service requirements specified in Sections 82076(~~b~~c) and (~~e~~d) ~~above~~, are met.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1528, 1530, 1530.5, and 1531, Health and Safety Code.

Renumber Sections 82577(a) through (d) to Sections 82077(a)(1) through (4) and amend to read:

825077 PERSONAL SERVICES

825077

(a) Adult day support centers shall comply with the following:

- (a1) When necessary, personal care assistance and supervision shall be provided to ~~participants~~ clients. This service shall include, but is not limited to, assistance with activities of daily living, such as walking, eating, grooming, toileting, and supervision of personal hygiene.
- (b2) Psychosocial support services shall be available to each ~~participant~~ client and his/her family.
 - (1A) The center shall assist ~~participants~~ clients and careproviders to understand and provide for each other's needs.
 - (2B) The center shall inform the family and careprovider of changes in the ~~participant's~~ client's physical, emotional, or cognitive status.
 - (3C) The center shall help the careprovider to understand any changes in the ~~participant~~ client and make referrals as necessary.
- (e3) Information and referral services shall be available to the ~~participants~~ clients and their families.
- (d4) The center shall establish linkages with other community agencies and instructions to staff to coordinate services.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Adopt new Section 82077.2 to read:

82077.2 CARE FOR CLIENTS WHO RELY UPON OTHERS TO PERFORM ALL ACTIVITIES OF DAILY LIVING 82077.2

- (a) A licensee may accept or retain a client who relies upon others to perform all activities of daily living for them.
- (b) Prior to accepting a client into care, the licensee shall complete the following:
 - (1) An approved plan of operation demonstrating the licensee's ability to care for these clients as specified in Section 82022(d).
 - (2) A Needs and Services Plan, as required by the facility/center-specific regulations, that includes all of the following:
 - (A) A plan to monitor the client's skin condition, including:
 - 1. Specific guidelines for turning the client (time, method, acceptable positions).
 - 2. Skin breakdown.
 - 3. Objective symptoms, observable by a lay person, indicating when a licensed professional must be contacted.
 - (B) A method for feeding the client and providing him/her with hydration.
 - (C) A method for determining the client's needs.
 - (D) A method for communicating with the client.
 - (E) A list of emergency contacts and a list of readily observable conditions that indicate when emergency intervention is necessary.
 - (F) A list of persons to contact in the event of nonemergency client distress or discomfort and a list of readily observable conditions that indicate when the licensee is to contact those persons.
 - (G) A description of the client-specific training that facility/center staff will receive. The training may be provided by the client's health care provider (physician or nurse), the client's physical or mental health therapist, social

worker, or placement worker, within their individual scopes of practice, in the following areas:

1. Client needs.
2. Objective symptoms indicating when the licensee is to contact health care and other assistance.
3. The training may be provided by the client's primary caregiver, including the client's family or the administrator of the client's residential or health facility.

(H) The licensee's agreement to document significant occurrences that result in changes in the client's physical, mental, and/or functional capabilities. This documentation must be retained in the client's record in the facility/center and be readily available for review by the client's health care providers and the Department.

(c) The Department may require any additional information it considers necessary to ensure the safety of clients.

(d) If the client has one or more of the restricted health conditions specified in Section 82092, the licensee shall also comply with all requirements of Article 8.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1507, and 1530, Health and Safety Code.

Adopt new Section 82077.4, renumber Sections 82588(d)(1), (e), and (f) to Sections 82077.4(b)(11), (12), and (13) and amend to read:

82077.4 CARE FOR CLIENTS WITH INCONTINENCE

82077.4

- (a) A licensee of an adult day program may accept or retain a client who has bowel and/or bladder incontinence.
- (b) If a licensee accepts or retains a client who has bowel and/or bladder incontinence, the licensee is responsible for all of the following:
 - (1) Ensuring that incontinent care products appropriate to the needs of the client are used whenever they are needed.
 - (2) Ensuring that clients who can benefit from scheduled toileting are assisted or reminded to go to the bathroom at regular intervals rather than being diapered.
 - (3) Assisting the client with self-care.
 - (4) Ensuring that clients with incontinence are kept clean and dry, and that the facility/center remains free of odors.
 - (5) Ensuring that, where prescribed, bowel and/or bladder programs are designed by a licensed professional or his/her designee. The person designing the program must have training and experience in care of persons with bowel and/or bladder dysfunction and development of retraining programs for establishing normal patterns of continence.
 - (A) The licensee shall ensure that clients are assisted with a structured bowel and/or bladder retraining program if one has been designed for the client.
 - (B) The licensee shall ensure that facility/center staff responsible for implementing the program receive training from the licensed professional or his/her designee who designed the program.
 - (C) The licensee obtains from the licensed professional or his/her designee written instructions to facility/center staff outlining the procedures and shall document the names of facility/center staff who received the training.
 - (D) The licensee shall ensure that the licensed professional or his/her designee evaluates the effectiveness of the program and staff as the licensed professional or designee deems appropriate, but at least annually.

- (6) Ensuring that the condition of the skin exposed to urine and stool is evaluated regularly to ensure that skin breakdown is not occurring.
- (7) Ensuring privacy when care is provided.
- (8) Providing needed incontinence supplies when the client or a third party is unable to do so.
- (9) Ensuring that fluids are not withheld to control incontinence.
- (10) Ensuring that a client with incontinence is not catheterized to control incontinence for the convenience of the licensee or facility/center staff.

~~82588~~(d)

- (11) The licensee shall obtain a change of clothing from incontinent ~~participants~~ clients in case clothing becomes wet or soiled.
- (~~e~~12) After each incontinent elimination, washcloths, towels, soiled bedding, clothing, and any cloths used for cleansing shall be placed in a sealed container and shall be laundered and sanitized.
- (~~f~~13) Disposable diapers, panty shield products, and disposables used for cleansing shall be disposed of in a sealed bag.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

Adopt new Section 82077.5 to read:

82077.5 CARE FOR CLIENTS WITH CONTRACTURES

82077.5

- (a) A licensee may accept or retain a client who has contractures.
- (b) If a licensee accepts or retains a client who has contractures, the licensee is responsible for all of the following:
 - (1) Monitoring the client's ongoing ability to care for his/her contractures in accordance with the physician's instructions.
 - (2) Ensuring that care is provided by a licensed professional or trained facility/center staff when the client is unable to provide self-care.
 - (A) The licensee shall ensure that facility/center staff responsible for assisting with range of motion exercises or other exercise(s) prescribed by the physician or therapist receive supervision and training from a licensed professional.
 - (B) The licensee obtains from the licensed professional written documentation outlining the procedures for the exercises and the names of facility/center staff who received the training.
 - (C) The licensee shall ensure that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

Amend Section 82078 to read:

82078 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION 82078

(a) ~~In addition to Section 80078, the following shall apply.~~

~~(1)~~ The licensee shall provide care and supervision necessary to meet the client's needs and all services specified in the admission agreement.

(b) In any instance where the Department does not suspend the facility/center license and the licensing agency requires that a client be relocated, as specified in Section 82094, the licensee shall prepare a written relocation plan. The plan shall contain all necessary steps to be taken to reduce stress to the client which may result in transfer trauma.

(1) The written relocation plan shall include, but not be limited to, the following:

(A) A specific date for beginning and a specific date for completion of the process of safely relocating the client. The time frame for relocation may provide for immediate relocation but shall not exceed 30 days or 30 days after the date of the written conclusion of the client's appeal of the relocation order, if appealed.

(B) A specific date when the client and the client's authorized representative, if any, shall be notified of the need for relocation.

(C) A specific date when consultation with the client's physician shall occur to obtain a current medical assessment of the client's health needs, to determine the appropriate facility/center type for relocation and to ensure that the client's health care needs continue to be met at all times during the relocation process.

(D) The method by which the licensee shall participate in the identification of an acceptable relocation site with the client and the authorized representative, if any. The licensee shall advise the client and/or the authorized representative that if the client is to be moved to another adult day program, a determination must be made that the client's needs can be legally met in the new facility/center before the move is made. If the client's needs cannot be legally met in the new facility/center, the client must be moved to a facility/center licensed to provide the necessary care.

(E) A list of contacts made or to be made by the licensee with community resources including, but not limited to, social workers, family members, Long Term Care Ombudsman, clergy, and others as appropriate to ensure

that services are provided to the client before, during, and after the move. The need for the move shall be discussed with the client and the client assured that support systems will remain in place.

- (F) Measures to be taken until relocation to protect the client and/or meet the client's health and safety needs.
 - (G) An agreement to notify the licensing agency when the relocation has occurred, including the client's new address, if known.
- (2) The relocation plan shall be submitted in writing to the licensing agency within the time set forth in the written notice by the licensing agency that the client requires health services that the facility/center cannot legally provide.
- (3) Any changes in the relocation plan shall be submitted in writing to the licensing agency. The licensing agency shall have the authority to approve, disapprove, or modify the plan.
- (4) If relocation of more than one (1) client is required, a separate plan shall be prepared and submitted in writing for each client.
- (5) The licensee shall comply with all terms and conditions of the approved plan. No written or oral contract with any other person shall release the licensee from the responsibility specified in Sections 82078(b) and (c) for relocating a client who has a health condition(s) which cannot be cared for in the facility/center and/or requires inpatient care in a licensed health facility, nor from taking all necessary actions to reduce stress to the client.
- (6) In cases where the licensing agency determines that the client is in imminent danger because of a health condition(s) which cannot be cared for in the facility/center or which requires inpatient care in a licensed health facility, the licensing agency shall have the authority to order the licensee to immediately relocate the client.
- (c) In all cases when a client must be relocated, the licensee shall not obstruct the relocation process and shall cooperate with the licensing agency in the relocation process. Such cooperation shall include, but not be limited to, the following activities:
 - (1) Identifying and preparing for removal of the medications, Medi-Cal or Medicare or other medical insurance documents, clothing, safeguarded cash resources, valuables and other belongings of the client.
 - (2) Contacting the authorized representative of the client to assist in transporting him or her, if necessary.

- (3) Contacting other suitable facilities/centers for placement, if necessary.
- (4) Providing access to client's files when required by the Department.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1511, 1528, ~~and~~ 1531, and 1556, Health and Safety Code.

Renumber Sections 82579(a) through (g) to Sections 82079(b)(1) through (7) and amend to read:

82079 PLANNED ACTIVITIES

82079

(a) Adult day care facilities shall comply with the following:

(a1) The licensee shall provide opportunities for, and encourage participation in activities, including, but not limited to:

(1A) Activities that require group interaction.

(2B) Daily living skills, including grooming, personal hygiene, social skills, cooking and simple homemaking tasks, and opportunities to learn about the community.

(3C) Physical activities, including, but not limited to, games, sports and exercise unless contraindicated by the medical assessment specified in Section 802069.

(4D) Leisure time to pursue personal interests.

(5E) Education through special instruction and projects.

(b2) Provision shall be made for client rest periods which are required based on the medical assessment specified in Section 802069 or as desired by the client.

(c3) Activities shall be encouraged through provision of space, equipment and supplies as specified in Sections 82087.2, 82087.3 and 82088(ek).

(b) Adult day support centers shall comply with the following:

82579

(a1) ~~ADSC a~~ Activities shall be designed to meet the ~~participant's~~ client's specific needs and interests, as determined by the Needs and Services Plan, and shall be consistent with the program's plan of operation.

(1A) Activities shall be planned by the administrator or the direct care staff allowing input from ~~participants~~ clients, family, careproviders, or volunteers.

- (2B) The center shall have a written plan of activities consistent with the program goals. The plan is an on-going process, and shall be reviewed and revised as necessary to assure that the center program and participants' clients' goals are being met.
- (b2) All program activities shall be supervised by direct care staff.
- (e3) The center shall encourage participants clients to take part in activities unless otherwise indicated in the Needs and Services Plan.
- (d4) Participants Clients shall be given rest periods as required in the medical assessment specified in Section 802069, or as desired by the participants clients.
- (e5) Activities shall be conducted with appropriate space, equipment, and supplies as specified in Sections 825087.2, 825087.3, and 825088(ik).
- (f6) A monthly calendar of activities shall be prepared and posted in a visible location within the center. The calendar shall be made available to anyone who requests a copy.
- (g7) Daily activities shall be posted in a visible location within the center.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1507, and 1531, Health and Safety Code.

Adopt new Section 82086 to read:

Article 7. Physical Environment

82086 ALTERATIONS TO EXISTING BUILDINGS OR NEW 82086
FACILITIES/CENTERS

- (a) Prior to construction or alterations, all licensees shall notify the licensing agency of the proposed change.
- (b) The licensing agency shall have the authority to require that the licensee have a building inspection by a local building inspector if the agency suspects that a hazard to the clients' health and safety exists.

HANDBOOK BEGINS HERE

- (c) Prior to construction or alterations, state or local law requires that all facilities/centers secure a building permit.

HANDBOOK ENDS HERE

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Renumber Sections 82587(e) and (d) to Sections 82087(m) and (n), and amend to read:

82087 BUILDINGS AND GROUNDS

82087

- (a) ~~In addition to Section 80087, the following shall apply.~~ The facility/center shall be clean, safe, sanitary and in good repair at all times for the safety and well-being of clients, employees and visitors.
 - (1) The licensee shall take measures to keep the facility/center free of flies and other insects.
 - (2) The licensee shall provide for the safe disposal of water and other chemicals used for cleaning purposes.
- (b) All clients shall be protected against hazards within the facility/center through provision of the following:
 - (1) Protective devices including, but not limited to, nonslip material on rugs.
- (c) All outdoor and indoor passageways, stairways, inclines, ramps, open porches, and other areas of potential hazard shall be kept free of obstruction.
- (d) The licensee shall provide an isolation room or area for use by ill clients.
- (e) General permanent or portable storage space shall be available for the storage of facility/center equipment and supplies.
 - (1) Facility/center equipment and supplies shall be stored in this space and shall not be stored in space used to meet other requirements specified in this chapter.
- (f) All licensees serving clients who have physical handicaps, mental disorders, or developmental disabilities shall ensure the inaccessibility of pools, including swimming pools (in-ground and above-ground), fixed-in-place wading pools, hot tubs, spas, fish ponds or similar bodies of water through a pool cover or by surrounding the pool with a fence.
 - (1) Fences shall be at least five feet high and shall be constructed so that the fence does not obscure the pool from view. The bottom and sides of the fence shall comply with Division 1, Appendix Chapter 4 of the 1994 Uniform Building Code. In addition to meeting all of the aforementioned requirements for fences, gates shall swing away from the pool, self-close and have a self-latching device located no more than six inches from the top of the gate. Pool covers shall be strong enough

- to completely support the weight of an adult and shall be placed on the pool and locked while the pool is not in use.
- (A) If licensed prior to June 1, 1995, facilities/centers with existing pool fencing shall be exempt from the fence requirements specified in Section 82087(f)(1) until such fence is replaced or structurally altered. If the licensee replaces or alters the fence, it shall meet the fence requirements specified in Section 82087(f)(1).
- (2) Where an above-ground pool structure is used as the fence or where the fence is mounted on top of the pool structure, the pool shall be made inaccessible when not in use by removing or making the ladder inaccessible or erecting a barricade to prevent access to decking. If a barricade is used, the barricade shall meet the requirements of Section 82087(f)(1).
- (g) All in-ground pools, and above-ground pools which cannot be emptied after each use shall have an operative pump and filtering system.
- (h) Disinfectants, cleaning solutions, poisons, and other items which could pose a danger if readily available to clients shall be stored where inaccessible to clients.
- (1) Storage areas for poisons, shall be locked.
- (i) Medicines shall be stored as specified in Sections 82075(m) and (n) and separately from other items specified in Section 82087(h).
- (j) The items specified in Section 82087(h) shall not be stored in food storage areas or in storage areas used by or for clients.
- (bk) There shall be office space available on the premises for private interviews conducted by facility staff.
- (el) Rooms or areas for rest periods shall be provided.

~~82587~~

- (em) For adult day support centers Sufficient parking area shall be available for safe arrival and departure of participants clients.
- (dn) When an adult day support center program is located in a place where other activities or programs may be conducted, the adult day support center program shall have its own separate identifiable space during the hours of operation.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Amend Section 82087.2 to read:

82087.2 OUTDOOR ACTIVITY SPACE

82087.2

(~~b~~a) The outdoor activity space shall be situated to:

- (1) Provide protection from traffic.
- (2) Provide a shaded rest area for ~~the~~ clients.

(b) The following shall apply to adult day care facilities only:

- (~~a~~1) The licensee shall ensure access to safe outdoor activity space for ~~the~~ clients.
- (~~e~~2) If outdoor activity space is not available on the premises, space meeting the requirements of Sections 82087.2(a) and (b) ~~above~~ shall be provided at another location, which shall be specified in the facility plan of operation, unless the facility has been granted a waiver.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Renumber Section 82587.3 to Section 82087.3 and amend to read:

82087.3 INDOOR ACTIVITY SPACE

82087.3

- (a) ~~An area shall be provided for quiet reading and study.~~

~~HANDBOOK BEGINS HERE~~

- (1) ~~This area can be a library, study room or similar area.~~

~~HANDBOOK ENDS HERE~~

~~82587.3~~

- (a) The licensee shall ensure safe and healthy indoor activity space for ~~participants~~ clients.
- (b) A space shall be provided for ~~participants~~ clients not actively participating in the planned activity programs.

HANDBOOK BEGINS HERE

- (1) This area can be a library, study room, or areas adjacent to the activity.

HANDBOOK ENDS HERE

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Amend Section 82087.4 to read:

82087.4 STORAGE SPACE

82087.4

- (a) There shall be space available for storage of clients' personal belongings.
- (b) There shall be space available for storage of equipment and supplies necessary to implement the planned activity program.
- (c) There shall be space available for storage of staff members' personal belongings.
- (d) There shall be space available on the premises for storage of the facility/center records specified in this chapter ~~and Chapter 1~~.

HANDBOOK BEGINS HERE

- (e) Storage space may be either permanent or portable.

HANDBOOK ENDS HERE

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Amend Section 82088 to read:

82088 FIXTURES, FURNITURE, EQUIPMENT AND SUPPLIES

82088

- (a) ~~In addition to Section 80088, the following shall apply.~~ A comfortable temperature for clients shall be maintained at all times.
- (1) The licensee shall maintain the temperature in rooms that clients occupy between a minimum of 68 degrees F (20 degrees C) and a maximum of 85 degrees F (30 degrees C).
- (A) In areas of extreme heat the maximum shall be 30 degrees F (16.6 degrees C) less than the outside temperature.
- (b) All window screens shall be in good repair and be free of insects, dirt and other debris.
- (c) Fireplaces and open-faced heaters shall be made inaccessible to clients to ensure protection of the clients' safety.

HANDBOOK BEGINS HERE

- (1) The use of a fireplace screen or similar barrier will meet this requirement.

HANDBOOK ENDS HERE

- (d) The licensee shall provide lamps or lights as necessary in all rooms and other areas to ensure the comfort and safety of all persons in the facility/center.
- (e) Faucets used by clients for personal care shall deliver hot water.
- (1) Hot water temperature controls shall be maintained to automatically regulate temperature of hot water delivered to plumbing fixtures used by clients to attain a hot water temperature of not less than 105 degrees F (40.5 degrees C) and not more than 120 degrees F (48.8 degrees C).
- (2) Taps delivering water at 125 degrees F (51.6 degrees C) or above shall be prominently identified by warning signs.
- (3) All toilets, hand washing and bathing facilities shall be maintained in safe and sanitary operating condition. Additional equipment, aids, and/or conveniences shall be provided in facilities/centers accommodating physically handicapped clients who need such items.

- (f) Solid waste shall be stored, located and disposed of in a manner that will not transmit communicable diseases or odors, create a nuisance, or provide a breeding place or food source for insects or rodents.
 - (1) All containers, including movable bins, used for storage of solid wastes shall have tight-fitting covers kept on the containers; shall be in good repair, shall be leakproof and rodent-proof.
 - (2) Solid waste containers, including movable bins, receiving putrescible waste shall be emptied at least once per week or more often if necessary to comply with Section 82088(f).
 - (3) Each movable bin shall provide for suitable access and a drainage device to allow complete cleaning at the storage area.
- (g) The licensee shall provide linens of various kinds necessary to meet the program of services being offered by the facility/center.
- (~~h~~) Based upon the total licensed capacity, one handwashing facility, and one toilet providing individual privacy, shall be maintained for every 15 clients, or fraction thereof.
 - (1) Facilities/~~centers~~ licensed ~~on the effective date of this chapter~~ prior to July 1989 shall be permitted to continue operations with the toilet facilities previously approved.
- (ei) Use of common towels and washcloths shall be prohibited.
- (~~d~~j) If beds are provided for resting, they shall be arranged to allow for unobstructed passage of personnel and of clients with assistive devices including, but not limited to, wheelchairs and walkers.
- (~~e~~k) Facilities/~~centers~~ shall provide the equipment and supplies necessary to meet the requirements of the planned activity program.
 - (1) Equipment shall be safe and sanitary.
 - (2) A variety of games, reading material, crafts and other materials shall be provided.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501 and 1531, Health and Safety Code.

Renumber Section 82588.2 to Section 82088.2 and amend to read:

82088.2 DRINKING WATER

82088.2

~~(a) Clean drinking water shall be readily available to all clients at all times.~~

~~82588.2~~

(a) Drinking water from a noncontaminating fixture or container shall be readily available both indoors and outdoors.

(1) ~~Participants~~ Clients shall be permitted to drink water whenever they wish.

HANDBOOK BEGINS HERE

(2) Bottled water or portable containers will be allowed provided that:

(A) The water and containers are kept free of contaminations.

(B) Bottled water containers are secured to prevent tipping and breaking.

HANDBOOK ENDS HERE

(3) All water used for drinking shall be potable as defined in California ~~Administrative Code of Regulations~~, Title 24, Part 5.

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(A) Title 24, Part 5 defines potable water as water which is satisfactory for drinking, culinary, and domestic purposes and meets the requirements of the health authority having jurisdiction.

HANDBOOK ENDS HERE

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Adopt new Article 8 and new Section 82090 to read:

Article 8. Health Related Services

82090 HEALTH AND SAFETY SERVICES 82090

- (a) The provisions of this article are applicable to adult day programs and shall be used in conjunction with Articles 1 through 7 of this chapter.
- (b) Waivers or exceptions will not be granted to accept or retain clients who have health conditions prohibited by Section 82091.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1507, and 1530, Health and Safety Code.

Adopt new Section 82091 to read:

82091 PROHIBITED HEALTH CONDITIONS

82091

- (a) Clients who require health services or have a health condition including, but not limited to, those specified below shall not be admitted or retained.
- (1) Naso-gastric and naso-duodenal tubes.
 - (2) Active, communicable TB.
 - (3) Conditions that require 24-hour nursing care and/or monitoring.
 - (4) Stage 3 and 4 dermal ulcers.
 - (5) Any other condition or care requirements which would require the facility/center to be licensed as a health facility as defined by Sections 1202 and 1250 of the Health and Safety Code.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, 1530, 1531, and 1557.5, Health and Safety Code.

Adopt new Section 82092 to read:

82092 RESTRICTED HEALTH CONDITIONS

82092

- (a) Adult day programs may accept or retain clients who have the conditions listed in this section only if all requirements of Article 8 are met.
- (b) Care for the following health conditions must be provided only as specified in Sections 82092.1 through 82092.11.
 - (1) Use of inhalation-assistive devices as specified in Section 82092.3.
 - (2) Colostomy/ileostomies as specified in Section 82092.4.
 - (3) Requirement for fecal impaction removal, enemas, and suppositories, only as specified in Section 82092.5.
 - (4) Use of catheters as specified in Section 82092.6.
 - (5) Staph or other serious, communicable infections as specified in Section 82092.7.
 - (6) Insulin-dependent diabetes as specified in Section 82092.8.
 - (7) Stage 1 and 2 dermal ulcers as specified in Section 82092.9.
 - (8) Wounds as specified in Section 82092.9.
 - (9) Gastrostomies as specified in Section 82092.10.
 - (10) Tracheostomies as specified in Section 82092.11.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

Adopt new Section 82092.1 to read:

82092.1 GENERAL REQUIREMENTS FOR RESTRICTED
HEALTH CONDITIONS

82092.1

- (a) A client with a restricted health condition specified in Section 82092 may be admitted or retained if all requirements in Sections 82092.1(b) through (n) are met.
- (b) The licensee is willing to provide the needed care.
- (c) Care is provided as specified in this article.
- (d) Either the client's medical condition is chronic and stable, or is temporary in nature and is expected to return to a condition normal for that client.
- (e) The client must be under the medical care of a licensed professional.
- (f) Prior to admission of a client with a restricted health condition specified in Section 82092, the licensee shall communicate with all other persons who provide care to that client to ensure consistency of care for the medical condition.
- (g) Prior to the admission of a client with a restricted health condition, all facility/center staff who will participate in meeting the client's specialized care needs shall complete training provided by a licensed professional sufficient to meet those needs. These staff shall complete the training prior to providing services to the client.
 - (1) Should the condition of the client change, all staff providing care and services shall complete any additional training required to meet the client's new needs, as determined by the client's physician or designee, who is also a licensed professional.
 - (2) All new staff shall complete the required training prior to providing services.
 - (3) Training shall include hands-on instruction in both general procedures and client-specific procedures.
 - (4) All training shall be documented in facility/center personnel files.
- (h) The licensee shall ensure that facility/center staff receive instruction from the client's physician or designee, who is also a licensed professional, or other licensed professional to recognize objective symptoms, observable by a lay person, and how to respond to that client's health problems, including whom to contact for that client.

- (i) The licensee shall monitor the client's ability to provide self-care for the restricted health condition, document any change in that ability, and inform the persons identified in Section 82068.2(k) of that change.
- (j) The licensee shall ensure that the client's health-related service needs are met.
 - (1) The licensee shall follow the approved plan for each client.
- (k) The licensee shall document any significant occurrences that result in changes in the client's physical, mental and/or functional capabilities and report these changes to the client's physician and authorized representative.
- (l) The licensee shall demonstrate compliance with the restricted health condition care plan by maintaining in the facility/center all relevant documentation.
- (m) The licensee shall report any substantive deviation from the care plan to the client's authorized representative.
- (n) The duty established by this section does not infringe on a client's right to receive or reject medical care or services, as allowed in Section 82072.
 - (1) If a client refuses medical services specified in the care plan, the licensee shall immediately notify all persons identified in Section 82068.2(k) and shall participate in developing a plan for meeting the client's needs.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

Adopt new Section 82092.3 to read:

82092.3 INHALATION-ASSISTIVE DEVICES

82092.3

- (a) A licensee may accept or retain a client who requires the use of an inhalation-assistive device if all of the following conditions are met:
- (1) The licensee is in compliance with Section 82092.1.
 - (2) The licensee monitors the client's ongoing ability to operate and care for the device in accordance with the physician's instructions.
 - (3) The licensee ensures that either:
 - (A) The device is operated and cared for by a licensed professional when the client is unable to operate the device, or determine his/her own need.
 - (B) The device can legally be operated by an unlicensed person and is cared for by facility/center staff who receive supervision and training from a licensed professional.
 1. The licensee obtains from the licensed professional written documentation outlining the procedures and the names of facility/center staff who received the training.
 2. The licensee ensures that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.
 - (4) The licensee ensures that:
 - (A) The device is functional.
 - (B) The device is removed from the facility/center when no longer prescribed for use by the client.
 - (5) The licensee ensures that the room containing the device is large enough both to accommodate it and to allow easy passage of clients and staff.
 - (6) The licensee ensures that facility/center staff have the knowledge of and ability to care for the device.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

Adopt new Section 82092.4 to read:

82092.4 COLOSTOMY/ILEOSTOMY

82092.4

- (a) A licensee may accept or retain a client who has a colostomy or ileostomy if all of the following conditions are met:
- (1) The client is mentally and physically capable of providing all routine care for his/her ostomy, and the physician has documented that the ostomy is completely healed.
 - (2) Assistance in the care of the ostomy is provided by a licensed professional.
 - (3) The licensee is in compliance with Section 82092.1.
 - (4) The licensee monitors the client's ongoing ability to provide care for his/her ostomy in accordance with the physician's instructions.
 - (5) The licensee ensures that:
 - (A) Ostomy care is provided by a licensed professional when the client is unable to provide self-care.
 - (B) The ostomy bag and adhesive may be changed by facility/center staff who receive supervision and training from the licensed professional.
 1. The licensee obtains from the licensed professional written documentation outlining the procedures and the names of facility/center staff who received the training.
 2. The licensee ensures that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.
 - (6) The licensee ensures that used bags are discarded as specified in Section 82088(f)(2).
 - (7) The licensee ensures privacy when ostomy care is provided.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

Adopt new Section 82092.5 to read:

82092.5 FECAL IMPACTION REMOVAL, ENEMAS, OR SUPPOSITORIES 82092.5

- (a) A licensee may accept or retain a client who requires manual fecal impaction removal, enemas, or use of suppositories if all of the following conditions are met:
- (1) The licensee is in compliance with Section 82092.1.
 - (2) The licensee monitors the client's ongoing ability to provide his/her own routine care in accordance with the physician's instructions.
 - (3) The licensee ensures that a licensed professional administers the fecal impaction removal, the enemas, or suppositories when the client is unable to do so for himself/herself.
 - (4) The licensee ensures that a licensed professional performs manual fecal impaction removal whenever it is necessary.
 - (5) The licensee ensures privacy when care is being provided.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

Adopt new Section 82092.6 to read:

82092.6 INDWELLING URINARY CATHETER/CATHETER PROCEDURE 82092.6

- (a) A licensee may accept or retain a client who requires an indwelling catheter if all of the following conditions are met:
- (1) The client is physically and mentally capable of caring for all aspects of the condition except insertion, removal and irrigation.
 - (A) Irrigation shall only be performed by a licensed professional in accordance with the physician's orders.
 - (B) Insertion and removal shall only be performed by a licensed professional.
 - (2) The licensee is in compliance with Section 82092.1.
 - (3) The licensee monitors the client's ongoing ability to care for his/her catheter in accordance with the physician's instructions.
 - (4) The licensee ensures that catheter care is provided by a licensed professional when the client is unable to provide self-care. The catheter bag may be emptied by facility/center staff who receive supervision and training from the licensed professional.
 - (A) The licensee obtains from the licensed professional written documentation outlining the procedures and the names of facility/center staff who received the training.
 - (B) The licensee shall ensure that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.
 - (5) The licensee ensures that insertion, removal and irrigation of the catheter, or any other required catheter care other than that specified in Section 82092.6(a)(4) are performed by a licensed professional.
 - (6) The licensee ensures that waste materials are disposed of as specified in Section 82088(f)(2).
 - (7) The licensee ensures privacy when care is provided.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

Adopt new Section 82092.7 to read:

82092.7 STAPH OR OTHER SERIOUS, COMMUNICABLE INFECTIONS

82092.7

(a) A licensee may accept or retain a client who has a staph or other serious communicable infection if the condition is being medically managed and if all of the following conditions are met:

- (1) The licensee is in compliance with Section 82092.1.
- (2) The licensee has obtained a statement from the client's physician that the infection is not a risk to other clients.
- (3) The licensee monitors the client's ongoing ability to care for his/her own condition by complying with the instructions of the licensed professional who is managing the client's care.
 - (A) The licensed professional may delegate certain aspects of the care if all of the following conditions are met:
 1. Facility/center staff responsible for providing care for an infection receive supervision and training from a licensed professional prior to providing care.
 2. The licensee obtains from the licensed professional written documentation outlining the procedures and the names of facility/center staff who received the training.
 3. The licensee ensures that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.
- (4) The licensee ensures that the infection is assessed by a licensed professional at intervals set by the physician or designee, who is also a licensed professional, to evaluate the treatment of the infection.
- (5) The licensee ensures that staff are instructed in and follow universal precautions and any other procedures recommended by the licensed professional that need to be followed for the protection of the client who has the infection and other clients and staff.
 - (A) Training must occur prior to facility/center staff providing care to these clients.

- (B) Training in universal precautions may be provided in the facility/center or staff may attend training provided by a local health facility, county health department, or other local training resources.
- (6) The licensee ensures that all aspects of care performed in the facility/center by the licensed professional and facility/center staff are documented in the client's file.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

Adopt new Section 82092.8 to read:

82092.8 INSULIN-DEPENDENT DIABETES

82092.8

- (a) A licensee may accept or retain a client who has insulin-dependent diabetes if all of the following conditions are met:
- (1) The licensee is in compliance with Section 82092.1.
 - (2) Either the client is mentally and physically capable of performing his/her own glucose testing and of administering his/her own medication, or a licensed professional administers the tests and injections.
 - (A) The licensed professional may delegate to trained facility/center staff glucose testing provided all of the following conditions are met:
 1. The blood glucose monitoring test is performed with a blood glucose monitoring instrument that has been approved by the federal Food and Drug Administration for over-the-counter sale.
 2. The licensee ensures that facility/center staff responsible for glucose testing receive training and supervision from a licensed professional.
 3. The licensee obtains from the licensed professional written documentation outlining the procedures and the names of facility/center staff who received the training.
 4. The licensee ensures that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.
 5. Facility/center staff comply with the instructions of the licensed professional regarding the performance of the test and the operation of the blood glucose monitoring instrument.
 6. Facility/center staff immediately notify the client's physician if the results are not within the normal range for the client.
 7. The licensee ensures that the results of each blood glucose test performed by facility/center staff are documented and maintained in the client's record in the facility/center.

- (3) The licensee ensures that sufficient amounts of medicines, testing equipment, syringes, needles, and other supplies are maintained and stored in the facility/center.
- (4) The licensee ensures that injections are administered immediately after a syringe is filled unless the client is using prefilled syringes prepared by a registered nurse, pharmacist or drug manufacturer.
- (5) The licensee ensures that syringes and needles are disposed of in accordance with California Code of Regulations, Title 8, Section 5193.

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- (A) California Code of Regulations, Title 8, Section 5193(d)(23) is paraphrased in pertinent part:

Contaminated needles and other contaminated sharps shall not be bent, recapped or removed. Shearing or breaking of contaminated needles is prohibited.

Immediately or as soon as possible after use, contaminated reusable sharps shall be placed in appropriate containers until properly reprocessed. These containers shall be:

- 1. Rigid;
- 2. Puncture resistant;
- 3. Leakproof on the sides and bottom;
- 4. Portable, if portability is necessary to ensure easy access by the user as required by this section, and
- 5. Labeled in accordance with this section.

HANDBOOK ENDS HERE

- (6) The licensee provides a modified diet as prescribed by a client's physician, as specified in Section 82076(a)(6). Any substitutions shall be made by the facility/center dietitian or in consultation with a registered dietician or the client's physician or medical provider.
- (A) Where food is provided, the licensee shall provide a modified diet as specified by the client's physician or family or primary caregiver.

(7) The licensee ensures that all facility/center staff who provide care receive training in recognizing the signs and symptoms of hyperglycemia and hypoglycemia and in taking appropriate action for client safety.

(b) For clients who provide self-care, the licensee shall:

(1) Monitor the client's ongoing ability to perform his/her glucose testing and administer his/her medication in accordance with the physician's instructions.

(2) Assist clients with self-administered medication, as specified in Section 82075.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

Adopt new Section 82092.9 to read:

82092.9 WOUNDS

82092.9

- (a) A licensee may accept or retain a client who has a serious wound if all of the following conditions are met:
- (1) The licensee is in compliance with Section 82092.1.
 - (2) The wound is either an unhealed, surgically closed incision or wound or a Stage 1 or 2 dermal ulcer and the wound is expected by the physician to return to a normal state.
 - (3) The licensee ensures that the wound care is provided by a licensed professional in accordance with the physician's instructions.
 - (A) The licensed professional may delegate simple dressing to trained facility/center staff if all of the following conditions are met:
 1. Facility/center staff responsible for changing dressings receive supervision and training from a licensed professional.
 2. The licensee obtains from the licensed professional written documentation outlining the procedures and names of facility/center staff who received the training.
 3. The licensee ensures that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.
 - (B) Facility/center staff responsible for changing dressings may be trained by the client's family or primary caregiver.
 - (4) The licensee ensures that the wound is assessed by a licensed professional at intervals set by the physician, or designee who is also a licensed professional, to evaluate treatment and progress toward healing.
 - (5) The licensee ensures that all aspects of care performed by the licensed professional and facility/center staff are documented in the client's file.
- (b) Nonserious wounds, which include, but are not limited to, minor cuts, punctures, lacerations, abrasions, and first-degree burns are not affected by this section.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

Adopt new Section 82092.10 to read:

82092.10 GASTROSTOMY FEEDING, HYDRATION, AND CARE

82092.10

- (a) A licensee may accept or retain a client who requires gastrostomy care, feeding, and/or hydration if all of the following conditions are met:
- (1) The licensee is in compliance with Section 82092.1.
 - (2) The physician has documented that the gastrostomy is completely healed.
 - (3) The licensee monitors the client's ongoing ability to provide all routine feeding, hydration and care for his/her gastrostomy in accordance with the physician's instructions.
 - (4) The licensee ensures that gastrostomy feeding, hydration, medication administration through the gastrostomy, and stoma cleaning are provided by a licensed professional when the client is unable to provide his/her own feeding, hydration and care.
 - (A) The licensed professional may delegate the following tasks to facility/center staff who receive supervision and training from a licensed professional:
 1. Gastrostomy feeding, hydration, and stoma cleaning.
 2. For routine medications, trained staff may add medication through the gastrostomy per physician's or nurse practitioner's orders.
 3. For PRN medications, trained staff may add medications through the gastrostomy in accordance with Sections 82075(b) through (e).
 - (B) The licensee shall obtain from the licensed professional written documentation outlining the procedures and the names of facility/center staff who received training.
 - (C) The licensee shall ensure that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

Adopt new Section 82092.11 to read:

82092.11 TRACHEOSTOMIES

82092.11

- (a) A licensee may accept or retain a client who has a tracheostomy if all of the following conditions are met:
- (1) The licensee is in compliance with Section 82092.1.
 - (2) Either the client is mentally and physically capable of providing all routine care for his/her tracheostomy and the physician has documented that the tracheostomy is completely healed, or assistance in the care of the tracheostomy is provided by a licensed professional.
 - (3) The licensee monitors the client's ongoing ability to provide all routine care for his/her tracheostomy in accordance with the physician's instructions.
 - (4) The licensee ensures that tracheostomy care is provided by a licensed professional when the client is unable to provide self-care.
 - (A) The licensed professional may delegate routine care for the tracheostomy to facility/center staff who receive supervision and training from the licensed professional.
 - (B) The licensee obtains from the licensed professional written documentation outlining the procedures and the names of facility/center staff who received the training.
 - (C) The licensee ensures that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

Adopt new Section 82093 to read:

82093 DEPARTMENT REVIEW OF HEALTH-RELATED CONDITIONS 82093

- (a) The Department may review actual or suspected health-related conditions, including those specified in Section 82092, to determine if a client is appropriately placed in the facility/center and if the client's health-related needs are being met. The Department will inform the licensee that the client's health-related condition requires review and will specify documentation that the licensee shall submit to the Department.

 - (1) Documentation includes, but is not limited to, the following:

 - (A) Restricted Health Condition Care Plan, if applicable.
 - (B) Needs and Services Plan.
 - (C) Copies of prescriptions for medical services and/or medical equipment.
 - (2) The licensee shall submit the documentation to the Department within 10 working days.
- (b) If the Department determines that the client has a restricted health condition, as specified in Section 82092, the licensee shall provide care to the client in accordance with conditions specified in Section 82092.1 and applicable requirements in Sections 82092.3 through 82092.11. If the licensee is not able to provide adequate care, the client shall be relocated.
- (c) If the Department determines that the client has a prohibited health condition, as specified in Section 82091 or a health condition that cannot be cared for within the limits of the license or within the abilities of that specific facility/center, the Department will order relocation of the client as specified in Section 82094.

 - (1) The notification to the licensee will include notice of all appeal rights, as specified in Section 82094.
- (d) This section does not entitle the licensee to a full evidentiary hearing, state hearing, or any other administrative review beyond that set forth in this section.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

Adopt new Section 82094 to read:

82094 HEALTH CONDITION RELOCATION ORDER

82094

- (a) The Department will order relocation of a client if the Department makes any of the following determinations:
 - (1) The client has a prohibited health condition, as specified in Section 82091.
 - (2) The licensee has not met all requirements in Section 82092.1 and applicable requirements in Sections 82092.3 through 82092.11.
 - (3) The client has a health condition that cannot be cared for within the limits of the license or within the abilities of that specific facility/center.
- (b) The Department will give written notice to the licensee ordering the relocation of the client and informing the licensee of the client's right to an Interdisciplinary Team review of the relocation order.
 - (1) Concurrently the Department will give the notice of the health condition relocation order and information about the client's right to request review of the relocation order to the client. The Department will mail, by certified mail, or deliver a copy within one working day to the client's authorized representative, if any and responsible person.
 - (A) If the client has no authorized representative, as defined in Section 82001, the relocation order shall be sent to the responsible person and representative payee, if any.
 - (2) The health condition relocation order will state the reason for the relocation order and cite the regulation(s) requiring the relocation.
 - (3) Upon receipt of the relocation order, the licensee shall prepare a written relocation plan in compliance with Section 82078.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1507, 1530, 1531, and 1556, Health and Safety Code.

Adopt new Section 82094.5 to read:

82094.5 CLIENT'S REQUEST FOR REVIEW OF A HEALTH
CONDITION RELOCATION ORDER BY THE
INTERDISCIPLINARY TEAM (IDT)

82094.5

- (a) A client or the client's authorized representative, if any, may request a review of the Department's health condition relocation order by the IDT.
- (b) The client or the client's authorized representative, if any, has 10 working days from receipt of the relocation order to submit to the licensee a written, signed, and dated request for a review and determination by the IDT.
 - (1) For purposes of this section, a working day is any day except Saturday, Sunday, or an official state holiday.
- (c) The licensee shall mail or deliver such a request to the Department within two (2) working days of receipt.
 - (1) Failure or refusal to do so may subject the licensee to civil penalties, as provided in Section 82054.
- (d) Within five (5) working days of receipt by the Department of the request for review, the Department will give written notification to the licensee, client and the client's authorized representative, if any, acknowledging receipt of the client's request for review of the relocation order.
- (e) Within twenty (20) working days from receipt of the client's review request, the licensee shall submit to the Department the documentation specified in this section to complete the client's review request.
 - (1) If the information is not received within twenty (20) days, the request for review will be considered withdrawn, the licensee will be notified, and the relocation plan will be implemented.
- (f) The licensee shall cooperate with the client and the client's authorized representative, if any, in gathering the documentation to complete the client's review request.
- (g) The documentation to complete the client's review request shall include, but not be limited to, the following:

- (1) The reason(s) for disagreeing that the client has the health condition identified in the relocation order and why the client believes he/she may legally continue to remain in the facility center.
- (2) Current health and functional capabilities assessments, as specified in Section 82069.
 - (A) For purposes of this section, “current” means a medical assessment completed on or after the date of the relocation order.
- (3) A written statement from any placement agency currently involved with the client addressing the relocation order.
- (h) The Department will inform the licensee, client, and the client's authorized representative, if any, in writing, of the IDTs determination and the reason for that determination not more than 30 days after the Department's receipt of the information required in this section.
- (i) A client does not have a right to a review under this section in any of the following circumstances:
 - (1) A health condition relocation order has been issued under Section 82078(b)(6).
 - (2) A client of an adult day support center has been discharged under Section 82068.5.
 - (3) A temporary suspension order has been issued under Section 82042.
- (j) This section does not entitle the client to a right to a state hearing or any other administrative review beyond that set forth in this section.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1507, 1530, and 1556, Health and Safety Code.

Repeal Chapter 3.5, Article 1., and Section 82500:

CHAPTER 3.5 ADULT DAY SUPPORT CENTER

Article 1. General Requirements

82500 GENERAL

82500

- (a) ~~Adult Day Support Centers, as defined in Section 80001a.(4), shall be governed by the provisions specified in this chapter and in Chapter 1, General Licensing Requirements.~~

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Repeal Sections 82501(b), (e), (g) through (m), (o) through (z) and renumber Sections 82501(a)(1), (2), (c)(1), (c)(2), (d)(1), (f)(1) and (2) et seq., (n)(1), and (p)(1) to Sections 82001(a)(8), (a)(10), (c)(3), (c)(11), (d)(7), (f)(2) and (3) et seq., (n)(1), and (p)(1), respectively:

82501 DEFINITIONS

82501

~~In addition to Section 80001, the following shall apply:~~

- (a) (1) (Renumbered to Section 82001(a)(8).)
- (2) (Renumbered to Section 82001(a)(10).)
- ~~(b) (Reserved)~~
- (c) (1) (Renumbered to Section 82001(c)(3).)
- (2) (Renumbered to Section 82001(c)(11).)
- (d) (1) (Renumbered to Section 82001(d)(7).)
- ~~(e) (Reserved)~~
- (f) (1) (Renumbered to Section 82001(f)(2).)
- (2) (Renumbered to Section 82001(f)(3).)
- (A) (Renumbered to Section 82001(f)(3)(A).)
- (B) (Renumbered to Section 82001(f)(3)(B).)
- ~~(g) (Reserved)~~
- ~~(h) (Reserved)~~
- ~~(i) (1) (Reserved)~~
- ~~(j) (Reserved)~~
- ~~(k) (Reserved)~~
- ~~(l) (Reserved)~~

~~(m)~~ ~~(Reserved)~~

(n) (1) (Renumbered to Section 82001(n)(1).)

~~(o)~~ ~~(Reserved)~~

(p) (1) (Renumbered to Section 82001(p)(1).

~~(q)~~ ~~(Reserved)~~

~~(r)~~ ~~(Reserved)~~

~~(s)~~ ~~(Reserved)~~

~~(t)~~ ~~(Reserved)~~

~~(u)~~ ~~(Reserved)~~

~~(v)~~ ~~(Reserved)~~

~~(w)~~ ~~(Reserved)~~

~~(x)~~ ~~(Reserved)~~

~~(y)~~ ~~(Reserved)~~

~~(z)~~ ~~(Reserved)~~

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1507, and 1531, Health and Safety Code.

Repeal Articles 2. and 3.; Sections 82522(a) and (b) and renumber Sections 82522(b)(1), (b)(2), (b)(3) and (c) to Sections 82022(b)(3), (b)(4), (b)(5) and (h), respectively:

Article 2. Licensing (Reserved)

Article 3. Application Procedures

82522 PLAN OF OPERATION

82522

~~(a) In addition to Section 80022, the following shall apply:~~

~~(b) The plan shall contain:~~

(1) (Renumbered to Section 82022(b)(3).)

(2) (Renumbered to Section 82022(b)(4).)

(3) (Renumbered to Section 82022(b)(5).)

(c) (Renumbered to Section 82022(h).)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1520, and 1531, Health and Safety Code.

Repeal Articles 4., 5., and 6.; Sections 82564(a), (b), (e), (f), (f)(1) through (f)(9) and renumber Sections 82564(b)(1), (b)(1)(A), (b)(1)(B), (b)(2), (c), (c)(1), (c)(2), (d), (d)(1), (d)(2), (d)(2)(A), (d)(2)(B), (f)(8) and (f)(10) through (f)(11) et seq. to Sections 82064(f)(1), (f)(1)(A), (f)(1)(B), (f)(2), (f)(3), (f)(4), (f)(5), (f)(6), (f)(6)(A), (f)(6)(B), (f)(6)(B)1., (f)(6)(B)2., (b)(14), (b)(15), and (b)(16) et seq. respectively:

Article 4. Administrative Actions (Reserved)

Article 5. Civil Penalties (Reserved)

Article 6. Continuing Requirements

82564 ADMINISTRATOR - QUALIFICATIONS AND DUTIES

82564

- ~~(a) In addition to Section 80064, the following shall apply.~~
- ~~(b) All adult day support centers shall have an administrator.~~
 - (1) (Renumbered to Section 82064(f)(1).)
 - (A) (Renumbered to Section 82064(f)(1)(A).)
 - (B) (Renumbered to Section 82064(f)(1)(B).)
 - (2) (Renumbered to Section 82064(f)(2).)
- (c) (Renumbered to Section 82064(f)(3).)
 - (1) (Renumbered to Section 82064(f)(4).)
 - (2) (Renumbered to Section 82064(f)(5).)
- (d) (Renumbered to Section 82064(f)(6).)
 - (1) (Renumbered to Section 82064(f)(6)(A).)
 - (2) (Renumbered to Section 82064(f)(6)(B).)
 - (A) (Renumbered to Section 82064(f)(6)(B)1.).
 - (B) (Renumbered to Section 82064(f)(6)(B)2.).

- (e) ~~Administrators employed prior to the effective date of this section shall remain qualified provided that they have no break in employment as an adult day care facility administrator exceeding three consecutive years.~~
- (f) ~~The administrator shall:~~
 - (1) ~~Provide for continuous supervision of all participants.~~
 - (2) ~~Supervise the operation of the center.~~
 - (3) ~~Comply with applicable laws and regulations.~~
 - (4) ~~Communicate with the Department as required by applicable laws and regulations.~~
 - (5) ~~Acknowledge the receipt of the Department's correspondence, notices, or field reports when the Department has requested a response.~~
 - (6) ~~Assure the timely correction of all cited deficiencies.~~
 - (7) ~~Adjust the program to accommodate the needs of all participants.~~
 - (8) (Renumbered to Section 82064(b)(14).)
 - (9) ~~Recruit, hire, and generally supervise all staff.~~
 - (10) (Renumbered to Section 82064(b)(15).)
 - (11) (Renumbered to Section 82064(b)(16).)
 - (A) (Renumbered to Section 82064(b)(16)(A).)
 - (B) (Renumbered to Section 82064(b)(16)(B).)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1531, and 1562, Health and Safety Code.

Repeal Section 82565(a), and renumber Section 82565(b) to Section 82065(o) and Section 82565(c) to Section 82065(n):

82565 PERSONNEL REQUIREMENTS

82565

- (a) ~~In addition to Section 80065, the following shall apply:~~
- (b) (Renumbered to Section 82065(o).)
- (c) (Renumbered to Section 82065(n).)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1531, and 1562, Health and Safety Code.

Repeal Sections 82565.1(c) et seq., and renumber Sections 82565.1(a), (b), and (c)(3)(A) to Sections 82065.1(d) et seq., (e), and (f) respectively:

82565.1 PERSONNEL QUALIFICATIONS AND DUTIES

82565.1

(a) (Renumbered to Section 82065.1(d).)

(1) (Renumbered to Section 82065.1(d)(1).)

(2) (Renumbered to Section 82065.1(d)(2).)

(3) (Renumbered to Section 82065.1(d)(3).)

(A) (Renumbered to Section 82065.1(d)(3)(A).)

(b) (Renumbered to Section 82065.1(e).)

(c) ~~The program shall provide staff to perform the following duties:~~

~~(1) Support staff~~

~~(A) Administrative support, including clerical, bookkeeping, and accounting.~~

~~(B) Cooking.~~

~~(C) Housecleaning.~~

~~(D) Maintenance of center buildings, grounds, fixtures, furniture, equipment, and supplies.~~

~~(2) Direct care staff shall be reasonable for care and supervision of participants, as defined in Section 80001c.(2).~~

~~(3) Direct care staff shall not be assigned to any of the support staff duties specified in (c)(1) above unless the care and supervision needs of participants have been met.~~

(A) (Renumbered to Section 82065.1(f).)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1531, and 1562, Health and Safety Code.

Repeal Sections 82565.5(b) et seq. and renumber Sections 82565.5(a) and (c) to Sections 82065.5(d) and (e) respectively:

82565.5 STAFF PARTICIPANT RATIO

82565.5

- (a) (Renumbered to Section 82065.5(d).)
- ~~(b) Whenever a participant who relies upon others to perform all activities of daily living is present, the following minimum staffing requirements shall be met:~~
 - ~~(1) For Regional Center participants, staffing shall be maintained as specified by the Regional Center.~~
 - ~~(2) For all other participants, there shall be a staff-participant ratio of no less than one direct care staff to four such participants.~~
- (c) (Renumbered to Section 82065.5(e).)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1507, 1531, and 1562, Health and Safety Code.

Repeal Sections 82568.2(a) and (b) and renumber Sections 82568.2(b)(1) through (7) et seq., and (c) and (d) et seq. to Sections 82068.2(i)(1) through (7) et seq., and (j), and (k) et seq. respectively:

82568.2 NEEDS AND SERVICES PLAN

82568.2

- (a) ~~Prior to admission, the licensee shall determine whether the facility's program can meet the prospective participant's service needs.~~
- (b) ~~If the participant is to be admitted and has no restricted health conditions as specified in Section 80092, then, no later than 30 days after admission, the licensee shall complete a written Needs and Services Plan that must include:~~
 - (1) (Renumbered to Section 82068.2(i)(1).)
 - (2) (Renumbered to Section 82068.2(i)(2).)
 - (3) (Renumbered to Section 82068.2(i)(3).)
 - (4) (Renumbered to Section 82068.2(i)(4).)
 - (5) (Renumbered to Section 82068.2(i)(5).)
 - (6) (Renumbered to Section 82068.2(i)(6).)
 - (7) (Renumbered to Section 82068.2(i)(7).)
 - (A) (Renumbered to Section 82068.2(i)(7)(A).)
 - (B) (Renumbered to Section 82068.2(i)(7)(B).)
 - (C) (Renumbered to Section 82068.2(i)(7)(C).)
 - (D) (Renumbered to Section 82068.2(i)(7)(D).)
 - (E) (Renumbered to Section 82068.2(i)(7)(E).)
- (c) (Renumbered to Section 82068.2(j).)
- (d) (Renumbered to Section 82068.2(k).)
 - (1) (Renumbered to Section 82068.2(k)(1).)

- (2) (Renumbered to Section 82068.2(k)(2).)
- (3) (Renumbered to Section 82068.2(k)(3).)
- (4) (Renumbered to Section 82068.2(k)(4).)
- (5) (Renumbered to Section 82068.2(k)(5).)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1507, and 1531, Health and Safety Code.

Renumber Sections 82568.3(a) and (b) to Sections 82568.3(b) and (b)(1):

82568.3 MODIFICATIONS TO THE NEEDS AND SERVICES PLAN

82568.3

(a) (Renumbered to Section 82068.3(b).)

(b) (Renumbered to Section 82068.3(b)(1).)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1507, and 1531, Health and Safety Code.

Renumber Sections 82568.5(a), (b), (b)(1), and (c) to Sections 82068.5(a)(1), (a)(2), (a)(2)(A) and (a)(3):

82568.5 PROCEDURES FOR DISCHARGE

82568.5

- (a) (Renumbered to Section 82068.5(a)(1).)
- (b) (Renumbered to Section 82068.5(a)(2).)
 - (1) (Renumbered to Section 82068.5(a)(2)(A).)
- (c) (Renumbered to Section 82068.5(a)(3).

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Repeal Section 82570(a) and renumber Sections 82570(b), and (b)(1) through (6) to Sections 82070(g) and (g)(1) through (6) respectively:

82570 PARTICIPANT'S RECORDS

82570

(a) ~~In addition to Section 80070, the following shall apply:~~

(b) (Renumbered to Section 82070(g).)

(1) (Renumbered to Section 82070(g)(1).)

(2) (Renumbered to Section 82070(g)(2).)

(3) (Renumbered to Section 82070(g)(3).)

(4) (Renumbered to Section 82070(g)(4).)

(5) (Renumbered to Section 82070(g)(5).)

(6) (Renumbered to Section 82070(g)(6).)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Repeal Section 82575(a) and renumber Sections 82575(b) through (g) to Sections 82075(q) through (v) respectively:

82575 HEALTH-RELATED SERVICES

82575

- ~~(a) In addition to Section 80075, the following shall apply:~~
- (b) (Renumbered to Section 82075(q).)
- (c) (Renumbered to Section 82075(r).)
- (d) (Renumbered to Section 82075(s).)
- (e) (Renumbered to Section 82075(t).)
- (f) (Renumbered to Section 82075(u).)
- (g) (Renumbered to Section 82075(v).)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1507, and 1531, Health and Safety Code.

Repeal Section 82575.1:

82575.1 DAILY INSPECTIONS FOR ILLNESS

82575.1

- (a) ~~The licensee shall ensure daily that participants with obvious symptoms of illness, including, but not limited to, fever and vomiting, are not allowed in the center unless they are separated from other participants.~~

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1507, and 1531, Health and Safety Code.

Repeal Section 82576:

82576 FOOD SERVICES

82576

- (a) ~~In addition to Section 80076, the following shall apply.~~
- (b) ~~A participant in care for less than eight hours shall be provided meals and snacks so that no more than three and a half hours elapse between food service.~~
- (c) ~~A participant in care for a period of eight hours or longer, shall be provided a mid-morning snack, lunch, and a mid-afternoon snack.~~
- (d) ~~A licensee who accepts a participant at 7:00 a.m. or earlier shall include a statement in the admission agreement of each participant regarding provision of breakfast.~~

HANDBOOK BEGINS HERE

- (1) ~~This requirement is not intended to require that the licensee provide breakfast, only that the admission agreement state whether or not breakfast will be provided.~~

HANDBOOK ENDS HERE

- (e) ~~Participants shall be permitted to bring their own food to the center unless otherwise stated in the admission agreement.~~
 - (1) ~~If the participant brings all or part of his/her own food to the center, the licensee shall ensure that food service requirements specified in (b) and (c) above, are met.~~

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Repeal Sections 82577(e) and (f) and renumber Sections 82577(a) through (d) to Sections 82077(a)(1) through (a)(4):

82577 PERSONAL SERVICES

82577

- (a) (Renumbered to Section 82077(a)(1).)
- (b) (Renumbered to Section 82077(a)(2).)
 - (1) (Renumbered to Section 82077(b)(2)(A).)
 - (2) (Renumbered to Section 82077(b)(2)(B).)
 - (3) (Renumbered to Section 82077(b)(2)(C).)
- (c) (Renumbered to Section 82077(a)(3).)
- (d) (Renumbered to Section 82077(a)(4).)
- ~~(e) Participants who are incontinent shall be taken to the toilet every two hours or as scheduled to the individual plan of care.~~
- ~~(f) After incontinent elimination, the participant shall be cleaned and towel dried.~~

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Renumber Sections 82579(a), (a)(1), and (a)(2) to Sections 82079(b)(1), (b)(1)(A), and (b)(1)(B); and Sections 82579(b) through (g) to Sections 82079(b)(2) through (b)(7), respectively:

82579 ACTIVITIES

82579

- (a) (Renumbered to Section 82079(b)(1).)
 - (1) (Renumbered to Section 82079(b)(1)(A).)
 - (2) (Renumbered to Section 82079(b)(1)(B).)
- (b) (Renumbered to Section 82079(b)(2).)
- (c) (Renumbered to Section 82079(b)(3).)
- (d) (Renumbered to Section 82079(b)(4).)
- (e) (Renumbered to Section 82079(b)(5).)
- (f) (Renumbered to Section 82079(b)(6).)
- (g) (Renumbered to Section 82079(b)(7).)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, 1507, and 1531, Health and Safety Code.

Repeal Article 7. Section 82587(a) and renumber Sections 82587(b) through (e) to Sections 82087(k), (l), (n), and (m), respectively.

Article 7. Physical Environment

82587 BUILDINGS AND GROUNDS

82587

~~(a) In addition to Section 80087, the following shall apply.~~

(b) (Renumbered to Section 82087(k).)

(c) (Renumbered to Section 82087(l).)

(d) (Renumbered to Section 82087(n).)

(e) (Renumbered to Section 82087(m).)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Repeal Section 82587.2:

82587.2 OUTDOOR ACTIVITY SPACE

82587.2

- (a) ~~If outdoor activity space is provided, it shall:~~
- ~~(1) Be free of safety hazards.~~
 - ~~(2) Provide protection from traffic.~~
 - ~~(3) Provide a shaded rest area for the participants.~~

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Renumber Sections 82587.3 to Section 82087.3:

82587.3 INDOOR ACTIVITY SPACE

82587.3

(a) (Renumbered to Section 82087.3(a).)

(b) (Renumbered to Section 82087.3(b).)

HANDBOOK BEGINS HERE

(1) (Renumbered to Section 82087.3(b)(1).)

HANDBOOK ENDS HERE

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Repeal Section 82587.4:

82587.4 STORAGE SPACE

82587.4

- (a) ~~There shall be a space available for storage of participants' personal belongings.~~
- (b) ~~There shall be space available for storage of staff members' personal belongings.~~
- (c) ~~There shall be space available for storage of equipment and supplies necessary to implement the planned activity program.~~
- (d) ~~There shall be space available on the premises for storage of the facility's current records specified in this chapter and Chapter 1.~~

HANDBOOK BEGINS HERE

- (e) ~~Storage space may be either permanent or portable.~~

HANDBOOK ENDS HERE

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Repeal Sections 82588(a), (b), (b)(1), (c), (d), (g), (h), (i), (i)(1) and (i)(2) and renumber Sections 82588(d)(1), (e), and (f) to Sections 82077.4(b)(11), (b)(12), and (b)(13) respectively:

82588 FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES 82588

- (a) ~~In addition to Section 80088, the following shall apply.~~
- (b) ~~Based upon the total licensed capacity, one hand washing facility and one toilet providing individual privacy, shall be maintained for every group of 15 participants or fraction thereof.~~
 - (1) ~~Centers licensed as adult day care facilities by the effective date of this chapter which become adult day support centers shall be permitted to continue operations with the toilet facilities previously approved.~~
- (c) ~~Use of common towels and washcloths shall be prohibited.~~
- (d) ~~Diapers and panty shield products shall be provided if the center accepts participants who are incontinent and these products are not provided by the family or others.~~
 - (1) (Renumbered to Section 82077.4(b)(11).)
- (e) (Renumbered to Section 82077.4(b)(12).)
- (f) (Renumbered to Section 82077.4(b)(13).)
- (g) ~~Odors due to incontinent participants shall be controlled.~~
- (h) ~~If beds are provided for resting, they shall be arranged to allow for unobstructed passage of personnel and of participants with assistive devices including, but not limited to, wheelchairs and walkers.~~
- (i) ~~Centers shall provide the equipment and supplies necessary to meet the requirements of the planned activity program.~~
 - (1) ~~Equipment shall be safe and sanitary.~~
 - (2) ~~A variety of games, reading materials, crafts, and other materials shall be provided.~~

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.

Section 82588.2 renumbered to Section 82088.2:

82588.2 DRINKING WATER

82588.2

(a) (Renumbered to Section 82088.2(a).)

(1) (Renumbered to Section 82088.2(a)(1).)

HANDBOOK BEGINS HERE

(2) (Renumbered to Section 82088.2(a)(2).)

(A) (Renumbered to Section 82088.2(a)(2)(A).)

(B) (Renumbered to Section 82088.2(a)(2)(B).)

HANDBOOK ENDS HERE

(3) (Renumbered to Section 82088.2(a)(3).)

HANDBOOK BEGINS HERE

(A) (Renumbered to Section 82088.2(a)(3)(A).)

HANDBOOK ENDS HERE

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502.2, and 1531, Health and Safety Code.